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FORT LAUDERDALE CITY COMMISSION
MAY 16, 2000**

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION
FORT LAUDERDALE, FLORIDA
MAY 16, 2000**

Meeting was called to order at 6:13 P.M. by Mayor Naugle on the above date, City Commission Meeting Room.

Roll call showed:

Present:	Commissioner Gloria F. Katz Commissioner Carlton B. Moore Commissioner Cindi Hutchinson Commissioner Tim Smith Mayor Naugle
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Absent:	None
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Also Present:

City Manager	F. T. Johnson
City Attorney	Dennis E. Lyles
City Clerk	Lucy Masliah
Sergeant at Arms	Sgt. Lewis

Invocation was offered by *Dr. John Myers*, First United Methodist Church.

Pledge of Allegiance to the Flag was led by *Sean Collins*, winner of the Virginia Shuman Young Elementary School's "Mayor for the Day" Essay Contest.

Motion made by Commissioner Moore and seconded by Commissioner Smith that the agenda and minutes of the meeting as shown below be approved:

Regular Meeting	May 2, 2000
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Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle.
NAYS: none.

NOTE: All Items were presented by Mayor Sean and/or Mayor Naugle unless otherwise shown, and all those desiring to be heard were heard. Items discussed are identified by the agenda number for reference. Items not on the agenda carry the description "OB" (Other Business).

Presentations (OB)**1. Ed Kennedy, Clerk of Courts**

Mayor Sean introduced *Mr. Ed Kennedy*, Clerk of Courts. Mr. Kennedy thanked the Commission for this opportunity to present himself to the community as the new Clerk of Courts in Broward County. He advised that he had served on the Broward County Commission for 8 years, and he recognized many people in the room. Mr. Kennedy stated that automation would be his immediate goal in the Clerk of Courts Office to make it user-friendlier.

2. Community Appearance Board's WOW Award

Commissioner Katz presented the Community Appearance Board's WOW Award to:

Chris and Barbara Carney
2122 Northeast 67th Street
Imperial Point

She stated that the Carneys had done an extraordinary job of remodeling the front and back yard landscapes, and the residence served as a role model for the neighborhood. Commissioner Katz noted that this house had been nominated for the WOW award by appreciative neighbors who valued the Carney's commitment to the improvement and upkeep of their home and surrounding landscaping. She thanked the Carneys for keeping Fort Lauderdale beautiful and presented them with a Gift Certificate from Builders Square.

3. "National Maritime Day"

Commissioner Smith read aloud and presented a Proclamation declaring May 22, 2000 as "National Maritime Day" in the City of Fort Lauderdale. *Mr. George Bark*, Vice-President, accepted the Proclamation on behalf of the American Merchant Marine Veterans. He stated that he also represented the Council of American Master Mariners and all the seamen who were at sea at the present time, as well as all those who had gone before since 1775. Mr. Bark invited everyone to join the Merchant Marine on May 22, 2000 at Riverwalk.

4. 2000 Air and Sea Show

Mayor Sean asked the City Manager to express the Commission's sincerest appreciation to all of the employees who had planned, coordinated and worked at the 2000 Air and Sea Show. The City Manager stated that the Air and Sea Show had been one of the finest ever, and he thanked all of the employees, volunteers and citizens who had made this event so wonderful. He advised that there had been a tremendous degree of cooperation from all the departments, and he wished to specifically recognize Mr. Tom Tapp, Director of Parks & Recreation. Mrs. Tapp was also on hand for the occasion. The City Manager stated that Mr. Tapp had been given an opportunity to fly with the Canadian Snow Birds, and he had not even become ill. He presented Mr. Tapp with a scarf, hat and goggles, along with a plaque of appreciation for his dedication and contribution to making the Air and Sea Show an outstanding success.

Mr. Tapp accepted the recognition on behalf of everyone who had worked so hard and so cooperatively. He also wished to thank the Commission for supporting this event over the past six years.

5. 2000 Census

Former County Commissioner *Sylvia Poitier* stated that a good job was being done with Census 2000, but she wanted to ensure an accurate count. At this time, the effort was focused on those who had not responded to the Census. She advised that the problem now involved the gated communities, and she encouraged everyone to cooperate so everyone would be counted.

CONSENT AGENDA (CA)

The following items were listed on the agenda for approval as recommended. The City Manager reviewed each item. Observations were made as shown. The following statement was read:

CONSENT AGENDA

Those matters included under the Consent Agenda are self-explanatory and are not expected to require review or discussion. Items will be enacted by one motion; if discussion on an item is desired by any City Commissioner or member of the public, however, that item may be removed from the Consent Agenda and considered separately.

Event Agreement – Las Olas Exotic Flower Show**(M-1)**

A motion authorizing the proper City officials to execute an Insurance, Indemnification, and Hold Harmless Agreement with the **Las Olas Association** to indemnify, protect, and hold harmless the City from any liability in connection with the **Las Olas Exotic Flower Show** to be held **Sunday, May 28, 2000 from 10:00 a.m. to 5:00 p.m.** on East Las Olas Boulevard.

Recommend: Motion to approve.

Exhibit: Memo No. 00-651 from City Manager.

CONSENT AGENDA

Event Agreement – Franni Palooza Blues Bash**(M-2)**

A motion authorizing the proper City officials to execute an Insurance, Indemnification, and Hold Harmless Agreement with the **Friends of Bark Park, Inc.** to indemnify, protect, and hold harmless the City from any liability in connection with the **Franni Palooza Blues Bash** to be held **Sunday, June 4, 2000 from 10:00 a.m. to 10:00 p.m.** at Snyder Park.

Recommend: Motion to approve.

Exhibit: Memo No. 00-692 from City Manager.

Second Amendment - Air and Sea Show Event Agreement with MDM Group and Agreement – Tobacco Prevention and Control and the Department of Children and Families - Sponsorship for Holiday Park Football/Soccer Scoreboards**(M-3)**

A motion authorizing the proper City officials to execute a second amendment to the Air and Sea Show Event Agreement with MDM Group Ltd.; and further authorizing the proper City officials to execute an agreement with Tobacco Prevention and Control, and the Department of Children and Families to sponsor two football/soccer scoreboards at Holiday Park.

Recommend: Motion to approve.

Exhibit: Memo No. 00-650 from City Manager.

Enterprise Zone Target Loan – Dr. Carmen Shirley**(M-4)**

A motion authorizing an Enterprise Zone (EZ) Target Loan in the amount of \$154,000 to Dr. Carmen Shirley to establish a family medical practice on 720 N.W. 22 Road, off of Sistrunk Boulevard.

Recommend: Motion to approve.

Exhibit: Memo No. 00-597 from City Manager.

Transfer of General Fund Contingencies – Fourth Annual Florida Neighborhoods Conference**(M-5)**

A motion authorizing the transfer of \$20,000 from General Fund Contingencies to a Community and Economic Development account to provide funding for the planning, administration, and implementation of the Fourth Annual Florida Neighborhoods Conference being co-hosted by the City and County.

Recommend: Motion to approve.

Exhibit: Memo No. 00-644 from City Manager.

Agreement – Broward Employment and Training Administration (BETA) – 2000 Summer Youth Program**(M-6)**

A motion authorizing the proper City officials to execute an agreement with BETA for the 2000 Summer Youth Program.

Recommend: Motion to approve.

Exhibit: Memo No. 00-633 from City Manager.

CONSENT AGENDA

**Commercial Lease Extension – Philip E. Morgaman, Trustee –
Police Community Policing Demonstration Center – 1113 East Sunrise Boulevard (M-7)**

A motion authorizing the proper City officials to execute a commercial lease extension with Philip E. Morgaman, Trustee, for the Police Community Policing Demonstration Center located at 1113 East Sunrise Boulevard, for a month to month agreement in the total amount of \$15,077.30, effective May 20, 2000 to September 30, 2000.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 00-563 from City Manager.

**Amendment to Development Agreement –
Lauderdale Beach Association – Site Plan Revisions to the
Marriott Harbor Beach Resort, 3030 Holiday Drive (PZ Case No. 181-R-99) (M-8)**

A motion authorizing the proper City officials to execute an amendment to the Development Agreement with the Lauderdale Beach Association for a new one-story spa addition over an existing parking structure, and the realignment of driveway isles as shown on the final Development Review Committee (DRC) plans (PZ Case No. 181-R-99).

Recommend: Motion to approve.

Exhibit: Memo No. 00-654 from City Manager.

**Grant Application – Department of Community Affairs through the
South Florida Regional Planning Council – Community Shuttle Bus Program (M-9)**

A motion authorizing the proper City officials to execute a grant application for funding the proposed Community Bus Shuttle Program through the South Florida Regional Council; and further authorizing the proper City officials to execute all documents necessary to accept such grant funding.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 00-652 from City Manager.

**Change Order No. 2 – Molloy Brothers Inc. – Project 9920-B -
Annual Contract for Sanitary and Storm Sewer Repairs – Hibiscus Place (M-10)**

A motion authorizing the proper City officials to execute Change Order No. 2 with Molloy Brothers Inc. in the amount of \$28,355 For additional work under the Annual Contract (2000/2001) for sanitary sewer and storm sewer repairs in Hibiscus Place.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 00-661 from City Manager.

CONSENT AGENDA

**Change Order No. 1 – Molloy Brothers, Inc. – Project 9920-B -
Annual Contract (2000/2001) Sanitary Sewer and Storm Sewer Repairs****(M-11)**

A motion authorizing the proper City officials to execute Change Order No. 1 with Molloy Brothers, Inc. in the amount of \$17,402.56 for additional work under the annual contract for sanitary sewer and storm sewer repairs.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 00-181 from City Manager.

**Change Order No. 2 – Pan American Construction, L.P. –
Project 9951- A – Annual Asphalt Resurfacing****(M-12)**

A motion authorizing the proper City officials to execute Change Order No. 2 with Pan American Construction, Inc. in the amount of \$15,117 for special road restoration.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 00-480 from City Manager.

**Change Order No. 4 – Tarafa Construction, Inc. –
Project 9689 – Mills Pond Park Improvements****(M-13)**

A motion authorizing the proper City officials to execute Change Order No. 4 with Tarafa Construction, Inc. in the amount of \$27,060 for additional landscaping along N.W. 15 Avenue.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 00-655 from City Manager.

**Easement – Florida Power and Light Company (FPL) – Relocation of
Underground Power Lines (S.E. 10 Avenue and 21 Street)/Mediterranean Village****(M-14)**

A motion authorizing the proper City officials to execute and deliver a utilities easement deed in favor of FPL to relocate power lines underground at the southeast corner of S.E. 10 Avenue and S.E. 21 Street.

Recommend: Motion to approve.

Exhibit: Memo No. 00-660 from City Manager.

CONSENT AGENDA

**Purchase of Property – Lillie R. Taylor –
Wingate Road Site Remediation Project – 2945 N.W. 13 Street****(M-15)**

A motion authorizing the proper City officials to execute a purchase agreement with Lillie R. Taylor to purchase property located at 2945 N.W. 13 Street (Lots 5 and 6, Block 69, Washington Park, 7th Addition, P.B. 39/10) in the amount of \$76,000, plus estimated closing costs and taxes of \$1,500 and relocation expenses of \$3,000.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 00-479 from City Manager.

**Purchase of Property – Berean Church of God, Inc. -
Wingate Road Site Remediation Project – 1441 N.W. 29 Avenue****(M-16)**

A motion authorizing the proper City officials to execute a purchase agreement with the Berean Church of God, Inc., a Florida not-for-profit corporation, to purchase property located at 1441 N.W. 29 Avenue (Lots 9 through 15, Block 56, Washington Park, 4th Addition, P.B. 22/44) in the amount of \$220,000, plus estimated closing costs and taxes of \$2,500.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 00-657 from City Manager.

**Purchase of Property –
John Moses and Rebecca E. Walden – Wingate Road Site
Remediation Project – 2900 Block of the North Side of N.W. 13 Street****(M-17)**

A motion authorizing the proper City officials to execute a purchase agreement with John Moses and Rebecca Walden to purchase property located on Lot 7 of the 2900 Block of the north side of N.W. 13 Street (Lot 7, Block 69, Washington Park, 7th Addition, P.B. 39/10) in the amount of \$12,000, plus estimated closing costs and taxes of \$1,500.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 00-658 from City Manager.

CONSENT AGENDA

Change Order No. 1 – Recreational Design**And Construction, Inc. – Project 10154 – Mizell Center Parking Lot****(M-18)**

A motion authorizing the proper City officials to execute Change Order No. 1 with Recreational Design and Construction, Inc. in the amount of \$17,281 to construct a one-inch asphalt overlay of asphalt pavement in the parking lot in lieu of the specified seal coating at the Mizell Center.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 00-659 from City Manager.

Task Order and Transfer from General Fund Contingencies –**Hughes Hall, Inc. - Traffic Calming Plan for Bayview Drive****(M-19)**

A motion authorizing the proper City officials to execute a Task Order with Hughes Hall, Inc. in the amount of \$20,000 for the Traffic Calming Plan for Bayview Drive; and further authorizing the transfer of \$20,000 from General Fund Contingencies to P10246 (Bayview Drive Traffic Calming Plan).

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 00-559 from City Manager.

Contract Extension – B. K. Marine Construction, Inc. -**Project 9701 – FY 2000/2001 Annual Marine Facilities Contract****(M-20)**

A motion authorizing the proper City officials to execute an agreement with B. K. Marine Construction, Inc. in the amount of \$76,580 for the renewal of the FY 2000/2001 Annual Marine Facilities Contract project.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 00-242 from City Manager.

Amendment to Agreement – United Residents Council (URC)**(M-21)**

A motion authorizing the proper City officials to amend the agreement with the United Residents Council to use funds for salaries and administration costs and extend the date of termination.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 00-532 from City Manager.

CONSENT AGENDA

**Task Order – Recreational Design and Construction, Inc. –
Project 10105 - Design and Construction Services for Riverwalk Park (M-22)**

A motion authorizing the proper City officials to execute a task order with Recreational Design and Construction in the amount of \$49,000 for design and construction services for Riverwalk Park.

Funds: See Memo

Recommend: Motion to approve.
Exhibit: Memo No. 00-542 from City Manager.

**Contract Award – AKA Services, Inc. -
Project 9394 – Replacement of Utilities at Cordova Road/Lauderdale Harbours (M-23)**

A motion authorizing the proper City officials to execute an agreement with AKA Services, Inc. in the amount of \$2,955,200 for the replacement of utilities at Cordova Road/Lauderdale Harbours area.

Funds: See Memo

Recommend: Motion to approve.
Exhibit: Memo No. 00-656 from City Manager.

**Agreement and Transfer of General Fund
Contingencies - Fort Lauderdale Greater Sister Cities International (M-24)**

A motion authorizing the proper City officials to execute an agreement with Fort Lauderdale Greater Sister Cities International and further authorizing the transfer of \$20,000 from General Fund Contingencies to the Community and Economic Development Department account PED030301/3299 (Other Services).

Recommend: Motion to approve.
Exhibit: Memo No. 00-628 from City Manager.

**Change Order No. 6 – F & L Construction, Inc. – Project 10126 -
Annual Contract for Concrete Paver Stone Repair/PoINCIANA Park Curbing (M-25)**

A motion authorizing the proper City officials to execute Change Order No. 6 with F & L Construction, Inc. in the amount of \$26,292 for the curbing project for the PoINCIANA Park neighborhood.

Funding: See Change Order

Recommend: Motion to approve.
Exhibit: Memo No. 00-628 from City Manager.

PURCHASING AGENDA

Bid No.	Item/Service	Low Responsible Bidder	Amount
			<u>Pur-1</u>
99-30	Purchase of one vacuum trash collection Admin. Serv./Fleet	Florida Municipal Equipment Lakeland, FL	\$28,600.00

Bids Solicited/Received: N/A

Exhibits: Memorandum No. 00-645 from City Manager

Remarks: Transfer of \$28,600 from Parking Retained Earnings to Fleet Fund (ADM030501-6416).

Recomm: Approve proprietary purchase based on North Miami Beach bid with transfer of funds.

			<u>Pur-2</u>
State	Purchase of two pickup trucks Admin. Serv./Fleet	Maroone Chevrolet, Inc. Pembroke Pines, FL	\$ 31,662.00

Bids Solicited/Received: N/A

Exhibits: Memorandum No. 00-627 from City Manager

Remarks: Transfer of \$31,662 from Permanent Salaries (PED100101-1101) to Fleet Fund (ADM030501-6416).

Recomm: Approve purchase from Florida State Contract with transfer of funds.

			<u>Pur-3</u>
502-8206	Five year contract for employee group health benefits (estimated)	USA Services Group, Inc. Ft. Lauderdale, FL	\$ 499,939.00
	Finance/Risk Mgmt.		

Bids Solicited/Received: 54/14 with 5 no bids

Exhibits: Memorandum No. 00-438 from City Manager

Remarks: The Purchasing Division has reviewed this item and agrees with the recommendation.

Recomm: Award to recommended proposer in accordance with Section 2-199, City Purchasing Ordinance, Competitive Negotiations.

PURCHASING AGENDA

<u>Bid No.</u>	<u>Item/Service</u>	<u>Low Responsible Bidder</u>	<u>Amount</u>
			<u>Pur-4</u>
Prop	Purchase of engineering service, labor and materials to rebuild Clarifier No. 6	Baker Process Baker Hughes Salt Lake City, UT	\$ 305,315.00

Bids Solicited/Received: N/A

Exhibits: Memorandum No. 00-606 from City Manager

Remarks: The Purchasing Division has reviewed this item and agrees with the recommendation.

Recomm: Approve proprietary purchase.

			<u>Pur-5</u>
602-8300	One year contract for brass service fittings Public Services (estimated)	Metalloy Industries, Inc. Alachua, FL	\$ 37,125.00

Bids Solicited/Received: 17/7

Exhibits: Memorandum No. 00-648 from City Manager

Remarks: The Purchasing Division has reviewed this item and agrees with the recommendation.

Recomm: Award to low responsive and responsible bidder.

			<u>Pur-6</u>
602-8301	Two year price agreements for water meter boxes and component parts Public Services	Brooks Products/Oldcastle Precast Medley, FL Ferguson Underground Pompano Beach, FL SEMSCO Davie, FL	Per Unit Pricing

Bids Solicited/Received: 21/5 with 3 no bids

Exhibits: Memorandum No. 00-641 from City Manager

Remarks: The Purchasing Division has reviewed this item and agrees with the recommendation.

Recomm: Award to low responsive and responsible bidders.

PURCHASING AGENDA

Bid No.	Item/Service	Low Responsible Bidder	Amount
			<u>Pur-7</u>
602-8291	Purchase of gravity sewer, storm drains and manhole rehabilitation services Public Services	Lanzo Lining Services, Inc. Pompano Beach, FL Insituform Technologies, Inc. Jacksonville, FL SuperTec Wastewater Services, Inc. Tallahassee, FL J&H Waterstop, Inc. Orange City, FL	\$ 789,880.00 144,869.13 41,770.00 <u>19,980.00</u> \$996,499.13

Bids Solicited/Received: 20/7

Exhibits: Memorandum No. 00-646 from City ManagerRemarks: The Purchasing Division has reviewed this item and agrees with the recommendation.Recomm: Award to low responsive and responsible bidders.

			<u>Pur-8</u>
602-8298	Two year contract for Florida Lawn Sand Public Services	Associated Auto Salvage, Inc. Ft. Lauderdale, FL	\$ 45,900.00 (estimated)

Bids Solicited/Received: 10/5 with 2 no bids

Exhibits: Memorandum No. 00-638 from City ManagerRemarks: The Purchasing Division has reviewed this item and agrees with the recommendation.Recomm: Award to low responsive and responsible bidder.

PURCHASING AGENDA

Bid No.	Item/Service	Low Responsible Bidder	Amount
			<u>Pur-9</u>
Prop	Purchase of engineering service, labor and materials for replacement of two Main Air Compressors (MAC's) Public Services	GE Industrial Systems West Palm Beach, FL	\$55,360.00

Bids Solicited/Received: N/A

Exhibits: Memorandum No. 00-632 from City Manager

Remarks: The Purchasing Division has reviewed this item and agrees with the recommendation.

Recomm: Approve proprietary purchase.

			<u>Pur-10</u>
602-8312	One year contract for chlorine (rail car delivery) Public Services	PB&S Chemical Co., Inc. Miramar, FL	\$ 183,141.00 (estimated)

Bids Solicited/Received: 31/4 with 3 no bids

Exhibits: Memorandum No. 00-639 from City Manager

Remarks: The Purchasing Division has reviewed this item and agrees with the recommendation.

Recomm: Award to low responsive and responsible bidder.

MOTIONS

Those matters included under the Motions category differ from the Consent Agenda in that items will be voted on individually. In addition, presentations will be made on each motion item if so desired.

Enterprise Zone Target Loan – Courtney Case Inc.**(M-26)**

A motion authorizing an Enterprise Zone (EZ) Target Loan in the amount of \$128,040 to Courtney Case, Inc. to purchase a parcel on 1398 West Sunrise Boulevard for office and retail center development. (Requested by Mayor Naugle)

Recommend: Motion to approve.

Exhibit: Memo No. 00-484 from City Manager.

**Late Response to Request for Proposals – Analytical Surveys, Inc. -
Project 414A – GIS Utility Mapping and Data Conversion Services****(M-27)**

The City Commission will consider the acceptance of Analytical Surveys, Inc.'s late response to the Request for Proposals (RFP) for Project 414A, GIS Utility Mapping and Data Conversion Services.

Recommend: Motion to approve.

Exhibit: Memo No. 00-676 from City Manager.

**Fort Lauderdale
Community Redevelopment Agency (CRA) – Policy Statement****(M-28)**

A motion to approve the CRA Policy Statement. (Also see Item CRA on the Conference Agenda)

Recommend: Motion to approve.

Exhibit: Memo No. 00-694 from City Manager.

The City Manager wished to **delete** Consent Agenda **Item No. M-23** for consideration at a later date. He explained that a letter of protest had been received in this regard, which staff would have to investigate.

Motion made by Commissioner Moore and seconded by Commissioner Smith that Consent Agenda Item Nos. M-2, M-3, M-9, M-24, Pur. 3 and Pur. 8 be deleted from the Consent Agenda and considered separately, and that all remaining Consent Agenda Items be approved as recommended. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Event Agreement – Franni Palooza Blues Bash (M-2)

Commissioner Hutchinson said that she had received some complaints in the past about events that went late into the night with loud music at Snyder Park. Mr. Tom Tapp, Director of Parks & Recreation, agreed this had been a concern over the years, and staff would be present. If the music got out of hand, he advised it would be controlled. In fact, in the last year or so, there had been few complaints, if any.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson that Consent Agenda Item No. M-2 be approved as recommended. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Second Amendment – Air and Sea Show Event Agreement with MDM Group and Agreement – Tobacco Prevention and Control and the Department of Children and Families – Sponsorship for Holiday Park Football/Soccer Scoreboards (M-3)

Commissioner Katz asked if the City already had the \$36,000. Mr. Tom Tapp, Director of Parks & Recreation, expected to have the money in hand from the Department of Children and Families. He stated that the contract would not be executed until the funds had been received, but he had received assurances that the funding had been approved.

Commissioner Katz did not think the City should approve this amendment if the monies were going to be paid over a ten-year period. Mr. Tapp stated that all the money to purchase the equipment would be provided at one time and, in exchange, the control signage would appear on the scoreboard for ten years.

Commissioner Smith asked if the amendment was to allow the carryover. Mr. Tapp replied that it would allow application of \$25,000 from this year and \$11,000 from next year. He explained that there were only two years remaining on the MDM contract term.

Commissioner Moore inquired about the signage. Mr. Tapp stated the first two signs would be placed on the scoreboards at Holiday Park, and similar signage would be offered in other locations as new scoreboards were constructed. He advised that scoreboards were proposed at Floyd Hull Stadium and Carter Park. Mr. Tapp explained that five scoreboards were going to be constructed in Holiday Park, but selling the advertising space would help the budget. He advised that staff hoped to encourage this in the future in other parks, and the MDM Group had a greater ability than the City to deal with corporations in this regard.

The City Manager said it just happened that the MDM Group had been the first to pursue this idea, and the existing contract provided a mechanism. However, the City would be free to pursue sponsors in the future. The City Manager advised that other sponsorships would be encouraged, and this particular advertising would involve tobacco prevention and control.

Commissioner Moore was not comfortable with the \$11,000 credit for next year until the scoreboards were completed. He preferred to leave the money in reserve until that time in order to provide an incentive to complete the sponsorship. Commissioner Moore also wanted to ensure that sponsorships were rotated to other parks besides Holiday Park.

Motion made by Commissioner Moore and seconded by Commissioner Katz to approve Consent Agenda Item No. M-3 with the \$11,000 credit held in reserve until there was sufficient funds for additional scoreboards, and that the sponsorships be rotated from one park to another. Roll call showed: YEAS: Commissioners Katz, Moore, and Mayor Naugle. NAYS: Commissioners Smith and Hutchinson.

**Grant Application – Department of Community
Affairs through the South Florida Regional Planning
Council – Community Shuttle Bus Program (M-9)**

Commissioner Katz wanted to ensure the City's needs were met, as opposed to the County telling the City where routes should be provided. Commissioner Moore understood the County Commission was discussing this subject today, and he believed there was some issue about how the percentages would be carried. He asked if the County was following the Interlocal Agreement. Mr. Horace McHugh, Assistant City Manager, believed the Interlocal Agreement called for 50% to the County and 26% to municipalities, and the rest allocated through grants.

The City Manager stated that Ms. Yvonne Buck was copying some materials right now that had been delivered late this afternoon. He understood there was a June 1, 2000 deadline, and those documents would be presented to meet that deadline, but the same percentages would be utilized based upon population.

Commissioner Smith asked if the City could dictate the routes as suggested by Commissioner Katz. Mr. McHugh did not think the City could control the routes, but staff would work with the County and the community to make sure Fort Lauderdale's needs were met. He explained that the County had certain criteria that had to be addressed. Mayor Naugle thought it would be helpful if County Commissioner Rodstrom provided some assistance. Commissioner Smith understood Commissioner Katz had been told that a route along the Galt Ocean Mile did not meet the criteria.

Commissioner Smith was concerned about the Lauderdale Lakes route for the Espresso Bus. He hoped no one was discussing enhancing that route, which had few passengers. *Mr. Paul Carpenter*, Executive Director of the Transportation Management Association (TMA), stated that about 60 passengers per day were being carried in 8 trips. However, 4 trips had been cut.

Commissioner Moore did not think Commissioner Katz's request about the routing had been denied. Rather, it had been indicated that service was already being offered on that route through another form of mass transit. He thought it might be best to encourage a change in that other transportation mode being used in that area. Commissioner Hutchinson stated that Broward County Transit was seeking City input as to the routes. She hoped to see a community shuttle pilot program in the Galt area and in the neighborhoods that were close to the downtown area.

Motion made by Commissioner Katz and seconded by Commissioner Moore to approve Consent Agenda Item No. M-9 as discussed. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Agreement and Transfer of General Fund Contingencies –
Fort Lauderdale Greater Sister Cities International (M-24)

Commissioner Moore said his questions had been satisfied in this regard.

Motion made by Commissioner Moore and seconded by Commissioner Smith that Consent Agenda Item No. M-24 be approved as recommended. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Bid 502-8206 – Five-Year Contract for
Employee Group Health Benefits (Pur. 3)

Commissioner Moore said he had not seen an aggregate policy offered for a loss. Mr. Scott Denham, Risk Manager, stated that specific stop loss figures had been used to develop these estimates, and comparisons had been used from each carrier. He advised that another analysis would also be performed with updated data, and aggregate stop loss insurance would be used to determine where the dollars were being traded in order to control premiums and risk exposure. Commissioner Moore requested a "Friday memo" about the aggregate stop loss. Mr. Denham agreed to provide that information. He also introduced the principals of USA Services Group, Inc.

Motion made by Commissioner Moore and seconded by Commissioner Smith that Consent Agenda Item No. Pur. 3 be approved as recommended. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Bid 602-8298 – Two-Year Contract for
Florida Lawn Sand (Pur. 8)

Commissioner Hutchinson questioned the name of the company in this case – Associated Auto Salvage, Inc. Mr. Kirk Buffington, Purchasing Manager, explained that the company had originally started out as an auto salvage yard.

Motion made by Commissioner Hutchinson and seconded by Commissioner Smith that Consent Agenda Item No. Pur. 8 be approved as recommended. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Enterprise Zone Target Loan – Courtney Case, Inc. (M-26)

A motion was presented authorizing an Enterprise Zone (EZ) Target Loan in the amount of \$128,040 to Courtney Case, Inc. to purchase a parcel at 1398 West Sunrise Boulevard for office and retail center development, as requested by Mayor Naugle.

Commissioner Moore wanted to clarify some recent newspaper articles in this regard. He stated that Mayor Naugle had evidently accused him of asking a staff member not to address this particular loan because there were other loans he viewed more favorably. Commissioner Moore wanted to make it very clear that he had made no such request of staff. Further, when considering the loan timetable and the actions of the Commission in February suggesting efforts be focused on the Sistrunk Boulevard area, he recommended against supporting this loan tonight.

Commissioner Moore said he had met with Mr. Case, who had brought this matter to his attention. He proposed construction of a building on the north side of Sunrise Boulevard, which was outside the Community Redevelopment Agency (CRA) boundary. Commissioner Moore had told him he would not support this loan for that reason, although he had supported a previous City loan to Mr. Case for the rehabilitation of another Sunrise Boulevard building.

Commissioner Moore said he had met with Mr. Case several years ago before the City had these loans available. At that time, area banks had been reluctant to provide financing in the northwest area of the City, but Mr. Case had received a bank loan with his support. Mr. Case had subsequently provided a convenience store and a laundry facility on Broward Boulevard, and he had been able to secure another loan from the same lending institution due to his business acumen. Mr. Case had subsequently expanded a convenience store and laundry facility on Sistrunk Boulevard, but the facility on Broward Boulevard had been sold, and problems had ensued. Commissioner Moore stated that Mr. Case had then operated the facility on Sistrunk Boulevard, and there had been consistent problems with drug sales and loitering ever since.

Commissioner Moore said he had told Mr. Case he could not support this loan until he had done something about the problems with his facility on Sistrunk Boulevard. However, he had not told Mr. Case or anyone else that he should not try to advocate his position on this loan. Commissioner Moore wanted everyone to know that he wanted to see Sistrunk Boulevard redeveloped and successful, but he would not support any individual who failed to address these types of problems within his district.

Commissioner Moore advised that Mr. Case had subsequently sold the Sistrunk Boulevard facility to someone else who had always been suspicious in terms of drug sales, food stamp fraud, etc. Although the Police Department had not been able to prove a case, it seemed as if these types of transactions occurred on properties owned by this individual. Commissioner Moore was still not satisfied that Mr. Case had tried to come up with a positive solution for the community. He preferred to support loans to individuals who wanted to redevelop the Sistrunk Boulevard corridor, and he had pointed out that there would be other opportunities for Mr. Case in the future. Commissioner Moore complimented staff on their efforts to bring these programs to the CRA, and he listed some projects that were underway in the area.

Commissioner Moore noted that his employer was interested in an EZ Loan in order to redevelop a downtown site on Sistrunk Boulevard. He did not feel he should be penalized because he employed him, and he thought the decision should be based on the merit of the loan application. Commissioner Moore stated this effort had nothing to do with him other than his desire to encourage positive redevelopment within the CRA and to turn around a corridor that had been blighted for over 30 years.

Commissioner Smith was terribly disturbed by some of Commissioner Moore's comments. He believed the site Mr. Case proposed to rehabilitate was in one of the most impoverished and needy areas of the City. He did not feel it was appropriate for Commissioner Moore to oppose a project just because it was not located on Sistrunk Boulevard. Commissioner Smith pointed out that the subject area had a lot of problems, and he was troubled by Commissioner Moore's position on these EZ Loans.

Commissioner Moore pointed out that one of the first EZ Loans provided had been provided to Mr. Case for a property located on Sunrise Boulevard. Commissioner Smith believed dozens of loans had been made to address properties on Sistrunk Boulevard. Commissioner Moore did not think that was the case, and he agreed there were needs throughout the community, but he felt Sistrunk Boulevard should take priority as the Commission had agreed in February. Commissioner Smith believed the Commission had agreed to work as a team to address all the impoverished areas in the City. Commissioner Moore pointed out that Mr. Case had already received one loan to address a property on Sunrise Boulevard.

Commissioner Katz said she had learned these monies had to be spent by June 30, 2000. She asked how much money was available and when the next funding cycle would commence. Mr. Phil Bacon, Economic Development Manager, provided some background information about the EZ Loan Program. He explained that the intent had been to address gaps in funding in certain areas in order to address the lack of access to sufficient capital. Mr. Bacon noted that a lot of applications had been submitted, as plotted on the map distributed to the Commission, and staff had attempted to score those applications based on various factors.

Mayor Naugle understood staff was recommending this loan because Mr. Case was ready to go forward now, and a significant capital investment was proposed. Mr. Bacon agreed that was correct. He explained that although there were other proposals with a higher priority, there were time constraints involved. Commissioner Katz did not think the criteria had been very clear. She asked how much money remained in the fund.

Ms. Faye Outlaw, Housing & Community Development Manager, stated that there was enough money remaining in the fund to cover the two loans on this evening's agenda. She also advised that a \$400,000 reprogramming amendment would be presented to the City Commission in June.

Mayor Naugle noticed that one of the criteria was whether or not a project was located within the CRA boundaries. He asked if Mr. Case's proposal related to property within the boundaries. Mr. Pete Witschen, Assistant City Manager, replied that it was located within the target area. The City Manager said that staff had embarked upon some extensive marketing efforts because of the time constraints, and he believed making the subject loan was the right thing to do. He explained that staff was trying to be fair to all the applicants and get the money out into the community for use as it had been intended.

Commissioner Moore noted that the back-up material indicated a closing date no later than June 20, 2000. Mr. Witschen agreed that was correct. Commissioner Moore asked if Mr. Case had invested any money into the acquisition of the property. *Mr. Courtney Case*, applicant, stated that he had made a down payment on the property. He advised that he had received a commitment from Union Bank for the construction, and he had some preliminary commitments for leases.

Commissioner Katz thought the Commission should consider spreading this money around on legitimate projects. Commissioner Smith wanted to reconsider the Shirley loan and have a Conference discussion on all of the EZ Loans. He advised that had been Item No. M-4, yet this item had been presented for discussion. Commissioner Smith understood that project was not on any major roadway. Commissioner Hutchinson shared Commissioner Smith's concerns. She pointed out the differences in the amount of information provided in connection with Item Nos. M-4 and M-26.

Mayor Naugle asked if Mr. Case had submitted all the information that had been requested. Mr. Witschen replied he had submitted a full application. Commissioner Smith did not think it was fair to approve one of these loans and then go back and reconsider the others. He felt Item No. M-4 should be reconsidered. Commissioner Hutchinson did not think that would be fair since the Commission had already approved it, and interested parties had already left the meeting.

Mr. Witschen estimated that if the two loans on this agenda were approved, there would be approximately \$400,000 in NAIL monies for future loans, assuming the Commission approved the reprogramming of those funds.

Commissioner Smith stated that Mr. Case had redeveloped a building on Sistrunk Boulevard, and he had never seen any problems associated with it. He had also been the first to come forward with a Sunrise Boulevard project. Commissioner Smith believed he was capable of bringing another good project to an impoverished area where there had been little effort, and the City had to spend this money very soon.

Commissioner Hutchinson said she would support this loan, but she asked Mr. Case to work with Commissioner Moore to address the problems he had mentioned with respect to the convenience store. Mr. Case said he had been trying to contact Commissioner Moore for months without success, and he had sold the property on Sistrunk Boulevard six years ago. Commissioner Moore stated that he had been supportive of Mr. Case's efforts in the past, and he might be supportive of this loan in the future, but not at this time.

Commissioner Katz believed there were others who had applied before Mr. Case who were not being considered for EZ Loans. She did not think moving forward with this loan now would be fair to those other individuals, and she mentioned Mr. Bob Young as an example. Mr. Bacon advised that Mr. Young had turned in the materials, but staff had not completed the due diligence process. Commissioner Smith understood that loan could not be awarded this evening, therefore. Mr. Witschen agreed that was correct, but other applications would be presented on June 6, 2000. Commissioner Moore felt this loan should be considered on that date.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson to approve an EZ Loan in the amount of \$128,040 to Courtney Case. Roll call showed: YEAS: Commissioners Smith, Hutchinson, and Mayor Naugle. NAYS: Commissioner Katz and Moore.

At 8:02 P.M., Commissioner Hutchinson left the meeting. She returned at 8:03 P.M.

Mayor Naugle stated that he had asked that this item be presented as a motion for discussion because he had received a telephone call from a citizen who had indicated a City Commissioner had made a decision that this loan could not be made. He had not known if that were true or not, so he had asked that the matter be placed on the agenda. At that time, Mayor Naugle said he had not known Commissioner Moore had a relative seeking one of these loans, and he had not known his boss had applied for a loan either. Mayor Naugle said he had been told Commissioner Moore had not wanted the item on the agenda, and Commissioner Moore disputed that statement.

**Late Response to Request for Proposals –
Analytical Surveys, Inc. – Project 414A –
GIS Utility Mapping and Data Conversion Services (M-27)**

The City Commission was scheduled to consider the acceptance of Analytical Surveys, Inc.'s late response to the Request for Proposals (RFP) for Project 414A, GIS Utility Mapping and Data Conversion Services.

Motion made by Commissioner Katz and seconded by Commissioner Hutchinson to approve the acceptance of Analytical Surveys, Inc.'s late response to the RFP for Project 414A, GIS Utility Mapping and Data Conversion Services. Roll call showed: YEAS: Commissioners Katz, Smith, Hutchinson, and Mayor Naugle. NAYS: Commissioner Moore.

**Fort Lauderdale Community Redevelopment
Agency (CRA) – Policy Statement (M-28)**

A motion was presented to approve the CRA Policy Statement. (Also see Item CRA on the Conference Agenda).

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson to approve the CRA Policy Statement. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

City View Project – Continuation of Conference Item I-F (OB)

Mr. Arthur Sigfried, 346 City View Drive, stated that the City had been an equal partner with the City View Homeowners' Association and the developer in the City View project. He advised that the City had not done anything. Mr. Sigfried stated that water and electrical power had been stolen from the residents, and items were passing inspection that should not have passed. He advised that people were moving into homes with temporary certificates of occupancy that had water coming out of the light fixtures, and nothing was being done.

Mr. Sigfried said that the City View residents had begged the City for help, but nothing had been done in over a year. He wanted to know if the City was going to press charges against the developer for stealing water, and work was being done illegally because no extension had been granted. Mr. Sigfried felt the City had given the developer the land and then just walked away. He said the residents had spent tens of thousands of dollars out of their own pockets to try to address the problems.

Commissioner Smith asked how much water the developer had used on the residents' account. Mr. Sigfried replied that the average bill was about \$900, but they were now well over \$3,000. He explained that the builder would break a line behind a building that had not yet closed and not tell anyone about it. Mr. Sigfried believed the amount of water in question amounted to \$20,000, and the residents had found lately that the builder had been taking electrical power.

Mr. Pete Witschen, Assistant City Manager, suggested the subject be addressed from several standpoints, starting with inspections under the South Florida Building Code (SFBC) and the landscaping. Commissioner Smith believed the neighborhood had additional information to present before having staff address questions.

Ms. Nancy Devanny, Secretary/Treasurer of the Homeowners' Association, stated that the Building Department staff had been extraordinary in working with residents over the past few weeks. She said she was here tonight to ask the City not to release the \$3 million performance bond held against Florida Affordable Housing. Ms. Devanny recalled the history of the project and said that Phase I was 15 years old now. She pointed out that it had taken those 15 years to build the reserve fund to \$85,000, and those monies had been depleted to about \$70,000 over the past 3 years just to pay bills for damages and resources use.

Ms. Devanny reported that the developer had only paid \$390 for water over the past 3 years, and the construction vehicles had deteriorated the roadway. Numerous times, the builder had been notified that it was a violation to use the road for heavy equipment. She advised that the sanitary sewer pipe had been broken as a result, and repair estimates ranged from \$11,000 to over \$20,000. Ms. Devanny stated that the builder had damaged the property, used the Association's resources and were arrogant enough to think they could finish the project without completing many of the items contained in the plans and development agreement.

Ms. Devanny stated there had been a fourth meeting with the developer and builder today, at Commissioner Smith's suggestion, to attempt to reach agreement on the issue of damages. She stated that the Association had been offered \$1,800 to clean up debris. Ms. Devanny did not feel there had been any good faith negotiation, and the residents could not afford the tremendous amount of money the developer had cost them. She hoped the City would withhold the bond until the residents were "made whole."

Mayor Naugle understood this matter had been submitted for mediation. Mr. Witschen advised there had been a mediation session today, but the City had not been a party to it. He had spoken with the developer's attorney later, however, but he had not been authorized by his client to attend this meeting. Therefore, there was no representative of the developer or the builder this evening. Mayor Naugle noted that the back-up memorandum indicated the developer would provide a report this evening. The City Manager advised that had been the intent when the memorandum had been written, and he had anticipated a report based on the mediation session. However, the developer had opted not to attend this meeting earlier today.

Ms. Cecelia Hollar, Director of Construction Services, stated that staff had been working with Ms. Devanny on building construction issues. Mr. Clay Parker, Assistant Building Official, had a report on inspection activity to present, and a list of punch list items had been developed by the field inspector. Ms. Hollar stated that her office would be coordinating follow-up on those items.

Mr. John Smith, Building Official, wished to address partial Certificates of Occupancy (COs). He explained that the Building Code provided for issuance of temporary and partial COs. Mr. Smith stated a temporary CO allowed someone to move in temporarily for a 90-day period, but all life safety features had to be installed, inspected and approved. He advised that a partial CO did not provide a timeline, and the area in question was considered complete having been inspected. However, a final CO could not be issued for the overall project because items such as landscaping or engineering remained. Mr. Smith stated that it would be to the benefit of the unit owners to issue a partial CO. He advised that 8 inspectors had signed the partial CO, as had he, so staff had been convinced that the units were safe and ready for occupation, although the total site was not yet completed.

Mr. Smith stated that every project had some punch list items to be addressed, and there could be things the inspectors missed or that had occurred after inspection. Therefore, after meeting with the Association, Mr. Parker had developed a list of punch list items to address.

Mr. Parker said he had attended a meeting on May 16, 2000, to discuss the outstanding issues. A list of some of the units with problems had been provided, and inspection schedules had been set. He stated that a majority of the problems seemed to be electrical, and about half of the inspections on the list had been completed. Mr. Parker advised that some problems had been identified, and although they were mostly minor in nature, they were being brought to the contractor's attention. Mayor Naugle asked for examples. Mr. Parker had not found any units that were not grounded, but there had been some problems with reverse polarities.

Mr. Parker advised that some of the GFI outlets were not working, and some had been painted over. He stated that every unit necessary would be inspected, and there were a few that had leak problems. Mr. Parker understood one building might have a roof leak, or there could have been flooding problems.

Mayor Naugle asked if the performance bond could be held up in order to address the site problems and damages. Mr. Witschen understood the performance bond related to the construction itself, and there was still at least one major site amenity that had not been completed – a fence on the east side. As to the water bill, degradation to the roadway system and the cost of sewer repairs, today's mediation session was supposed to provide some resolution. Apparently, that had not been the case, however. Mr. Witschen stated that the developer had agreed to a City-sponsored mediation session, as of 5:30 P.M. today, and he hoped both parties would agree to binding mediation on the remaining issues to avoid having to go into court.

Commissioner Smith understood the performance bond could only be attached to major development agreement items, such as the fence, but not to other issues like roadway damage, etc. Mr. Witschen agreed that was his understanding, although there was recourse for damages through forced mediation or litigation. Commissioner Smith asked how much responsibility the administration took as the City was a partner in this agreement. Mr. Witschen stated it had been frustrated, and he hoped the issues could be amicably resolved. He wanted to see the project completed and everyone happy. He pointed out that the City would certainly exercise any rights under the development agreement, and there was also recourse through the Department of Professional Regulation. Commissioner Smith inquired about the water theft. Mr. Witschen advised that if there was allegation of theft, the usual investigation process would be undertaken by the Police Department.

Ms. Devanny stated that there was specific language on the plans related to damage to roadways and utilities. Mr. Sigfried advised there were other things on the plans that had not been addressed either. For example, there was supposed to be paving and curbing in certain areas, and PVC pipe had been left sticking out of the ground. He advised that there was still wire sticking up out of the ground all over, and there was rebar hanging from trees. Mr. Sigfried stated that the sod had been installed right over the construction debris, and nothing had been done to deal with these issues.

Commissioner Moore suggested that the City give the Association some money to retain legal counsel to deal with the contractual agreements between the Association, the City and the developer. He thought some engineering inspections could help determine who was at fault, or if there had been a problem with the infrastructure installed by the City. Commissioner Moore had not felt this developer was the right one from the beginning, and he thought everyone was being mistreated in this process. He also did not think the City was doing everything possible, and perhaps should not because of its position, but he felt some third party should review the documents for a resolution. Commissioner Moore pointed out that the Commission had paid legal costs for other neighborhoods in the past.

Commissioner Moore inquired as to the completion date under the development agreement. Mr. Witschen believed the developer was already in technical default because the completion date had been May 5, 2000. Commissioner Moore wanted an independent attorney to review the documents to see if the City could do anything through the performance bond.

Commissioner Smith liked Commissioner Moore's approach. He felt the City's last piece of leverage was the developer's agreement, and he wondered if the City could go in and close down the job now that the developer was in default of that agreement. Commissioner Smith understood the builder would be unable to complete the work, and the developer would be unable to collect the bond until there was good faith bargaining. He believed that was a call the residents would have to make, but there was very little else the City could do beyond putting the builder off the site.

The City Attorney stated that the City could close down the project and call on the performance bond, but he preferred to defer to the Assistant City Attorney as to the specifics of the development agreement. Mr. Bob Dunckel, Assistant City Attorney, stated that the City did not have a pot of money that was being withheld from the developer. However, a performance and payment bond had been posted. If the job was shut down and the builder prevented from finishing the job, the City would have to make a claim against the bond.

Mr. Dunckel stated that this approach had been taken with a previous technical default, and he did not know how much was left to bring in another contractor to complete the work. He thought that might not be the most fruitful of efforts. Mayor Naugle understood a lot of the original \$3 million might have been used hiring this builder. Mr. Dunckel agreed that was correct.

Mr. Dunckel thought assemblage of a mediation team might be a good idea, and he heard Commissioner Moore's suggestion about separate counsel. He stated that there were attorneys with expertise in condominium litigation, who could perhaps be coupled with some reputable members of the development community to form a mediation team.

Commissioner Smith felt mitigation was one good idea, but the builder had stolen \$20,000 worth of water from the residents. He thought the City should take a tougher stance beyond providing legal assistance. Commissioner Smith felt the Police Department should get involved and pursue a criminal solution. The City Attorney advised theft of water was a crime that should not be overlooked. He stated that the Police Department could investigate and bring appropriate charges. He stated that it was also appropriate for the City to support Commissioner Moore's suggestion to provide some legal assistance to the residents.

The City Attorney explained that his office could only represent the City as an entity as it was a party to the development agreement. He agreed the homeowners probably did need some help from an outside attorney, and it would be a conflict for the same lawyer to be handling both ends of this issue against the developer. The City Attorney also believed it would be an appropriate use of public funds to make a donation toward the legal expenses.

Mayor Naugle asked if a dollar amount could be considered at this time. The City Attorney said he would have to come back to the Commission with a recommendation as to a dollar amount. Mayor Naugle felt the status of the bond should be investigated. Commissioner Moore inquired about the punch list items. Mr. Witschen stated that staff could provide a timetable to the City Commission about the punch list items within the next few days.

Mr. Smith noted that subcontractors were being required to go back and correct problems at their own cost. Commissioner Moore thought the landscaping seemed to be less than that approved. Mr. Witschen advised that the DRC-approved plans, including the landscape plan, had been given to the inspectors and the developer to ensure everything was done in accordance with those plans.

Commissioner Moore hoped this developer would not be used on future City projects. Mr. Witschen said he would have a hard time making any recommendation to partner with this developer again in the future. Commissioner Moore was concerned about whether or not the Association could meet its expenses in light of the expenditures already made. Mr. Sigfried replied that the Association had not run out of money yet, but it would soon. He noted that the work was about 98% completed, but it was his impression that the builder was trying to sneak as much past the inspectors as possible.

Commissioner Moore noted that many of the units had been sold as "affordable units." One of the greatest concerns about property in the redevelopment area was continued maintenance after project completion. He wanted to ensure the Association was not left without an adequate reserve for maintenance.

It was the consensus of the Commission to have staff investigate the water theft; funding for private counsel; the status of the punch list items; the performance bond; and, the maintenance reserve.

**Application for Dock Waiver of Limitations –
Robert J. and Sally K. Lovern – 629 Idlewyld Drive (PH-1)**

A public hearing was scheduled to consider a resolution authorizing the proper City officials to waive the limitations of Section 47-19.3(B) and (C) of the Unified Land Development Regulations (ULDR) as provided by Section 4-19.3(D) of the Code of Ordinances in order to allow Robert J. and Sally K. Lovern to maintain an existing dock and construct a boat lift extending a maximum distance of 30.5' and maintain 2 existing dolphin pilings extending a maximum distance of 49.8' and 50.7', respectively, from the property line into the Intracoastal Waterway.

Mayor Naugle called for those who wished to be heard. There were none.

Motion made by Commissioner Smith and seconded by Commissioner Moore that the public hearing be closed. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Commissioner Smith introduced a written resolution entitled:

RESOLUTION NO. 00-59

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, WAIVING THE LIMITATIONS OF SECTION 47-19.3.B OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE TO ALLOW ROBERT J. LOVERN AND SALLY K. LOVERN TO MAINTAIN AN L-SHAPED PIER, TWO DOLPHIN OR MOORING PILES AND TO CONSTRUCT AND MAINTAIN A CRADLE TYPE BOAT LIFT AS MORE PARTICULARLY SET FORTH BELOW FOR THE PROPERTY LOCATED AT 629 IDLEWYLD DRIVE AND RESCINDING CITY OF FORT LAUDERDALE RESOLUTION NO. 82-224.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

**Tarpon River Neighborhood Sanitary Sewer
Improvement Special Assessment Project (PH-2)**

A public hearing was scheduled to consider a resolution approving the funding of the sanitary sewer improvements construction in the Tarpon River Neighborhood and to defray the expense by special assessments; describing the nature and location of the improvements; providing for the cost of the improvements; providing for the manner in which said assessments shall be made, when said assessments are to be paid, and designating the lands upon which the special assessments shall be made, when said assessments are to be paid, and designating the lands upon which the special assessments shall be levied. Notice of the public hearing was published May 1 and 8, 2000. (Please see Item PH-3 on this Agenda).

Mayor Naugle explained that the City Commission had previously approved the Tarpon River Neighborhood Sanitary Sewer Improvement Special Assessment Project and imposed special assessments. Due to problems in calculating the square footage of the specially assessed property, the City had decided to consider adoption of a new special assessment for the project.

Mayor Naugle stated that since this would be a new special assessment, two public hearings were scheduled this evening on the project in accordance with State Statutes. During this first hearing, testimony would be heard about the propriety and advisability of funding the improvements with special assessments. After the public hearing, he advised the City Commission would consider a resolution approving the improvements and funding them through the levy of special assessments. If adopted, the next public hearing would be held by the Commission as an equalizing board to hear complaints as to the special assessments. Mayor Naugle stated that any necessary adjustment would be made to the assessment roll, and then the Commission would consider adoption of a resolution accepting the final assessment roll.

At 8:48 P.M., Commissioner Smith left the meeting.

Mayor Naugle called for those who wished to be heard. The following appeared:

Mr. Greg Kisela, Assistant City Manager, recalled that in the summer of 1998, this had first been presented to the City Commission. The project had been approved, and the basis for the square footage calculations for the 450 properties in the assessment area had been information obtained through the Geographic Information System (GIS) system. He stated that the information entered into the GIS had come from base maps acquired from Florida Power & Light Company. Unfortunately, the information had only been estimates of the square footage of properties rather than actual square footages.

Mr. Kisela advised the City had historically used the plat maps. Mayor Naugle asked why information was not obtained from the Property Appraiser's Office. Mr. Kisela replied they did not have square footage information. Mayor Naugle stated that land valuation was based on square footage.

Mr. Kisela stated that the final assessment had been levied. He advised that the cost per square foot had originally been estimated at approximately \$.62, and the figure had dropped to about \$.59. After mailing the legal notices indicating that the work had been completed and was available for correction, the City had started to receive a number of contacts from property owners expressing concerns that the square footage figures were incorrect. Mr. Kisela said that staff had then learned that the GIS information was not sufficiently precise, and a number of properties had been improperly measured and assessed.

At 8:52 P.M., Commissioner Smith returned to the meeting.

Mr. Kisela reported that 311 of the properties had been over-assessed, and 139 had been under-assessed. Therefore, staff had prepared a new assessment roll. He advised that staff had a series of recommendations to attempt to deal with the errors made in the assessment. Mr. Kisela was pleased with the project itself, but he apologized for the mistake. He stated that the corrections were a matter of equity.

Mr. Kisela stated that of the 139 properties that were under-assessed, 11 properties would have to pay more than \$1,000, and over 90% would have to pay less. In addition, an issue concerning submerged lands had also been identified. Mr. Kisela believed there were about 47 properties that abutted water, and the plat maps did not clearly distinguish between submerged land and dry land. As a result, many property owners felt they should not be assessed for the submerged land. Mr. Kisela stated that the expert retained by the City agreed the submerged land should be discounted by approximately 90%.

Commissioner Smith asked how much discounting the submerged land would cost. Mr. Kisela estimated the cost at about \$50,000. If the Commission agreed with this recommendation, surveys would have to be performed, however, and the waterfront properties recalculated. Mr. Kisela stated that this amount would come from the Water & Sewer Fund as opposed to the other people being assessed. Mayor Naugle asked if older surveys would be accepted. Mr. Kisela replied they were acceptable.

Mr. Mike Bailey, Public Services Department, stated that staff recommended that if a resident had already paid some amount less than or equal to the corrected assessment, that amount paid would be credit. Any remaining unpaid balance would be payable and interest would accrue beginning July 1, 2000. He advised that if someone had not yet connected to the sewer system, a full or partial refund of payments made could be elected by submitting a request to the City Clerk on or before June 1, 2000. Mr. Bailey stated that after June 1, 2000, any remaining paid amount would be credited toward the corrected assessment, and any remaining unpaid balance would be payable and interest would accrue starting July 1, 2000.

Mr. Bailey advised that if a resident had already paid an amount greater than the corrected assessment, they would receive a refund of the difference by June 1, 2000. Interest would be paid on the difference for the period March 1, 2000 to the date of the refund. If someone had not yet connected to the system, they could elect a refund of all or a portion of the payment. He advised interest would be paid on the amount above the corrected assessment amount. Again, a request for this refund had to be sent to the City Clerk on or before June 1, 2000. Mr. Bailey noted that staff had considered extending the date for interest accrual, but State Statutes indicated a 30-day interest-free payment period was necessary.

Commissioner Smith asked when liens were lifted on individual properties. He understood some people had paid their full assessments, but the liens had not yet been lifted. Mr. Boe Cole, City Treasurer, advised that 23 properties had already been released. However, when the problem with the assessment had arisen, the releases had been put on hold until a resolution had been reached. Mayor Naugle understood people could work with the Treasury if they wanted to sell their homes tomorrow. Mr. Cole agreed staff was prepared to assist. Mr. Kisela noted that of the 23 liens that had been released, some 20 would be entitled to a refund because they had been over-assessed.

Ms. Selma Krapatta, 601 Southwest 10th Street, had received 3 bills ranging from \$6,476 to \$6,000, and then to \$7,882. The bill had included a note that if it was paid, \$500 would be refunded. Ms. Krapatta had paid the first bill, and then she had received all the corrected notices. In addition, a street adjacent to her property had been vacated, and the sewer had been installed on her property. Ms. Krapatta had not received any compensation for that work done on her property, and she understood others had been compensated.

Mayor Naugle explained that Ms. Krapatta now owned the portion of the street that had been vacated, but he was sure the City had maintained an easement to run pipes. Mr. Kisela agreed that was correct. In other cases, the City had to purchase easements from abutting property owners. He stated that staff would research the matter further and provide the necessary paperwork.

Ms. Krapatta was very upset. Mayor Naugle agreed it was an embarrassing situation. Ms. Krapatta said she was sorry she had paid the first bill and would prefer to pay the assessment on a monthly basis. Mayor Naugle believed she had the option of obtaining a refund and paying the assessment monthly.

Mr. Ted Ritter, resident of Southwest 11th Court, believed the traditional method of assessment involved linear frontage feet, and he did not think it was too late to take that approach in this case. He presented some slides to illustrate the concept, which he felt was simple and foolproof and would have avoided the errors.

Commissioner Smith recalled the problem with the linear frontage measurement had been lots with irregular shapes. Mayor Naugle agreed corner properties also caused problems. He felt the best method was to assess on a per unit basis.

Ms. Betty Horvath was very upset. She understood the sewer project had been approved in September, but she recalled it had been voted down in July by the majority of the affected residents. Ms. Horvath said she had paid the first bill, but there was still a lien on her property. She had subsequently been informed that there would be a lien on her house until she had connected to the system, but there had been nothing about that in any of the literature she had received. Ms. Horvath felt this sewer project had caused a great deal of agony to her neighborhood. She also thought it was unfair that this neighborhood had to pay for sewers, but the City was apparently considering a referendum or an additional sales tax to pay for sewers in other neighborhoods.

Ms. Horvath stated that many residents of this neighborhood were on fixed incomes, and no one had mentioned the possibility of the City paying the cost of sewer improvements. She felt the City was taking her property rights. Mr. Bailey advised that there had been a series of criteria for the required date of connection. This project had always included the option to defer connection to the new sewer system, unlike traditional projects. Mayor Naugle agreed that traditionally people had been forced to connect once a system was completed. In this case, the City had allowed the option of deferring connection in order to be more flexible.

At 9:11 P.M., Commissioner Moore left the meeting. He returned at 9:12 P.M.

Mr. Cole referred to the liens. He explained that there had been a lot of confusion about the lien release triggers. He had originally understood the liens should be released upon payment of the assessment, but he had later learned the liens should not be released until connection to the system. In further discussions with the City Attorney's Office, Mr. Cole had learned that the lien could be released upon payment of the assessment. However, there was an overhanging condition that connection occur by the year 2018.

Commissioner Hutchinson believed Ms. Horvath lived in an area that had not been included in the project originally. Mr. Kisela agreed areas east of Southwest 4th Avenue had been added later during the process, but they had been notified in accordance with State Statutes.

Ms. Denise Fuchs, resident of Southwest 11th Court, said her property was on the water. She had a survey showing less square footage, and she had already been informed she would be receiving a refund for over-payment. However, she was on a section of the street in which she could not connect because of a contractor's mistake in the grade. Ms. Fuchs had spoken to the City Treasurer, but she was unclear about how to proceed. She pointed out that the City had thousands of her dollars, and she inquired about the interest that would be paid.

Mr. Kisela advised that Ms. Fuchs would be able to connect as of June 1, 2001, and interest would be paid at the rate of 7.21% on the over-paid amount. Further, if Ms. Fuchs provided the survey, a recalculation would be performed to discount the submerged land as discussed earlier if the Commission approved that approach.

Ms. Susan Peterson said she was speaking on behalf of her 90-year old mother, who owned the property at 601 Southwest 11th Street. In the spirit of cooperation, she suggested the City study the idea of helping people who were over 80 years old and could not afford the connection. *Ms. Peterson* was concerned about “block busting” that was going on in the area, and she thought the City could find some creative way to assist the elderly.

Commissioner Hutchinson believed the City had a team that searched for grant opportunities. The City Manager agreed the City had some staff with grant capabilities. Mr. Kisela added that there were existing programs to assist individual households under certain circumstances.

Mr. Andy Zifferfont, 25 Southwest 5th Street, said he owned several properties in the neighborhood, and he wanted to compliment staff on always being accessible and courteous. However, as far as this mistake was concerned, he always paid the price when he made a mistake. He stated that when he had made a mistake by leaving too much bulk trash at the curb, the City had charged him \$130 with no questions asked. Mr. Zifferfont did not think the City should “pass the buck” for making this mistake.

Ms. Cindy Cooper, 608 Southwest 11th Court, said she had lived all over the world, and this was the first time she had heard of property owners paying for sewers the City installed. She had only had to pay for maintenance, so she had been surprised about this situation. Nevertheless, if that was going to be the case, she felt she should pay just for the installation as opposed to the square footage of the property. Ms. Cooper felt the City had done a few things extremely poorly.

Ms. Deana Dunworth was concerned about filing a W-9 at the end of the year. She had paid her assessment and connected, and she thought the \$1,000 should be deducted rather than having to file a W-9 at the end of the year and pay taxes on it. She did not think that was right.

Mr. Kisela explained that if the City paid interest on any over-paid amount, it was required to declare it to the IRS, and it was considered income. He stated this was a federal income tax requirement. Mayor Naugle pointed out that if Ms. Dunworth had earned interest on a banking account, for example, she would have had to pay taxes on that investment interest. Commissioner Moore understood Ms. Dunworth was receiving a refund of \$1,000, so she would receive interest in the amount of about \$30. Mr. Kisela advised she had not received interest as of yet but, if the Commission approved, Ms. Dunworth would receive interest on the amount over-paid.

Commissioner Moore hoped Ms. Dunworth understood she would only be paying income on the interest earned, and not on the whole refund amount. Mr. Kisela believed Ms. Dunworth was actually referring to two \$500 grants the City had allowed, so the \$1,000 was taxable income. He noted this grant was similar to the grants provided in the Isles for the marine sanitation facilities, and grants were considered income. Mr. Kisela believed she would also be receiving an over payment refund and interest, and the interest would also be considered income. Mayor Naugle noted that people did not have to accept the \$500 grants. Mr. Cole noted that the City could not withhold the income tax amount because it could not know about Ms. Dunworth's income, deductions, etc.

Ms. Doris Burn said she had a few complaints. She said she was a “little old lady” who could not afford sewers. Ms. Burn pointed out that Commissioner Moore had indicated his district wanted sewers but could not afford them, so he wanted to have a referendum to see if the taxpayers would pay the bill. She wondered why this neighborhood was not being given the same consideration because there were a lot of elderly people living in this area who could not afford sewers either. Commissioner Moore stated that he had voted for this project because it had appeared there was a consensus in the community to move forward with understanding of the cost. Ms. Burn did not believe certain petitions from those against the project had been taken into consideration, and she thought 95% of the residents had been opposed to the project.

Ms. Burn stated that developers were trying to force people out so the property could be used for townhouses. She also had concerns about the project itself. Ms. Burn advised that her yard had been flooded during the work, and her gas line had been broken. In addition, the swales looked poorly now. Further, 9th Street had been completely flooded yesterday, which was a new problem for the area. Ms. Burn thought it was a disgrace to ask the taxpayers to fund a bond issue to pay for sewers in the northwest when everyone else in the City had to pay for their own sewers.

Commissioner Moore pointed out that a referendum had not yet been held, and there were various options being considered. Ms. Burn understood that, but this neighborhood had not been given the same consideration. Mayor Naugle suggested that Ms. Burn provide Mr. Bailey with her location so he could determine if the City could do anything about the swale.

Mr. David Moore, 208 Southwest 11th Court, stated that his property spanned two lots plus 10'. He believed the original proposal had been to base the assessment on water usage or square footage, and he had been hopeful it would be based on water usage. Mr. Moore said he would be happy if a developer wanted to purchase his property, and he had alerted his neighbors to the fact that they were being assessed on submerged land. He hoped the Commission would support staff's recommendation in that respect.

Ms. Horvath said she had received a letter on March 3, 2000, from Tarpon River Townhomes. She advised that her area east of 4th Avenue had been added at the request of the Tarpon River Civic Association according to the letter. Ms. Horvath thought it was strange that members of the Association professed worry for the elderly residents of the neighborhood because the area added was populated by many elderly people. She also understood the Association wanted to designate her area a buffer zone between the downtown area and the residential area, and she did not appreciate it. Ms. Horvath pointed out that there were people who had lived in their homes for 50 years, but they were being forced out.

Mr. Gil McGarris, 211 Southwest 11th Street, said he lived in the area added after the fact, and he had not found about this before July. In fact, he had only heard about it because he happened to obtain a Tarpon River Civic Association newsletter. Mr. McGarris said he had attended the hearing in September and kept a tally sheet. He reported there had been 44 residents who opposed the project, and 40 residents present who favored it. Mr. McGarris felt the majority should rule.

Mr. McGarris recalled discussion from the September hearing, and someone had indicated they wanted to see a bulldozer come in and raze the "shacks." Although he was not elderly, this neighborhood had been a step up for him, and he had scrimped and saved to purchase his home. Mr. McGarris could not afford a \$4,000 assessment, and his realtor had indicated sewers were not planned for the area. He was against this project, and he noted his property deed referred to Croissant Park as opposed to Tarpon River. Mr. McGarris believed his area had been added to lower the assessments in Tarpon River.

Commissioner Moore recalled the vote was 42 to 46 at the hearing, but most of them had been opposed to the project. He noted that there were two public hearings, and he had voted against it the first time. However, the Civic Association had convinced him of the need, and he had supported the project at the second hearing. Commissioner Moore pointed out that this project had been the first time the new concept about deferring connection had been utilized in order to lessen the individual financial impacts, and that was why he had suggested the same concept be used for the Lauderdale Manors neighborhood.

Commissioner Moore pointed out that the sewers had already been installed. He apologized for the problems that had occurred, and he explained that he had voted against the Lauderdale Manors project because a lot more individuals had come out in opposition to it than there had been in Tarpon River. In the case of Tarpon River, the difference between those for and against the project had been marginal.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that the public hearing be closed. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Commissioner Hutchinson was upset that the City had made these mistakes and put her in a "hot seat." She felt the homes on the east side of 4th Avenue had been "trapped" into this project, and she had concerns about the fact that those property owners had not been involved in the process since the beginning. At this point, Commissioner Hutchinson said the only thing she was willing to support was staff's recommendation pertaining to the discounting of the submerged land. She did not think there was a customer who would pay a bill any business had sent out on four different occasions, and she was just as confused and disgusted as the area residents.

Commissioner Smith concurred with Commissioner Hutchinson. He did not think it would be fair to go back and collect more money from the residents. Commissioner Smith felt the City should "eat" the \$50,000. Mayor Naugle believed that amount pertained only to the discounting of the submerged land. That was Commissioner Hutchinson's understanding as well. Commissioner Smith felt the City should cover the cost of the mistake. He pointed out that people had supported or opposed the project on the basis of the information provided, and the Commission had also relied on the information provided. Commissioner Smith felt the residents should be able to rely on information provided by the government. He thought the majority of the citizens of Fort Lauderdale would want to "kick in" and take care of that \$50,000 bill.

Mayor Naugle believed the cost would be a lot more than \$50,000 even if everyone paid the lowest bill they had received. He wondered about the actual figure and whether or not the City could legally take the approach suggested by Commissioner Smith.

Mr. Kisela wanted to apologize again to the Commission and the community. Staff had clearly made the mistake, but the total amount under-assessed was about \$53,000. He stated that this issue had never been one of economics, but one of equity. Mr. Kisela explained that simply picking up that tab would mean that one individual would be paying only about \$.02 per square foot while others would pay \$.57 or \$.58 per square foot. He stated that there would be some 350 property owners in the neighborhood who would have paid their fair share, while 139 property owners would not. Mr. Kisela was concerned that any one of those 350 property owners could challenge such an action and unravel the entire \$1.9 million assessment program. Therefore, staff was not comfortable making such a recommendation.

Commissioner Hutchinson referred to an article in the Sun Sentinel. It stated that the City could not charge more than \$.46 per square foot. Mr. Kisela advised the original assessment had been approximately \$.62 per square foot, and the project had actually been completed at a cost 6% or 7% less than the estimated amount. Nevertheless, \$.62 had been the maximum amount that could be charged. Mayor Naugle did not know where that \$.46 figure had come from, and Commissioner Moore thought that might have been the figure for the Lauderdale Manors project. Mayor Naugle thought that was likely. He explained that area was much larger and had a high elevation as compared to Tarpon River. Therefore, costs were reduced.

Commissioner Hutchinson asked if the \$53,000 figure included the discounted submerged land. Mr. Kisela replied it did not. He explained staff did not know what that discount would cost yet because surveys and calculations had not yet been done. Commissioner Katz asked the City Attorney's opinion about Commissioner Smith's suggestion to cover the \$53,000 cost of the mistake.

The City Attorney said his research had not turned up any specific guidance from the courts on how to handle this type of situation. He did not know if the suggestion would or would not jeopardize the entire assessment project. The City Attorney had consulted with some of the recognized experts in the field, and he could not recommend that the City absorb the \$53,000 cost and make refunds to those who were over-assessed. He also could not indicate that doing so would be unlawful. However, he could indicate it might expose the City to litigation brought by property owners in the neighborhood who had been correctly assessed and demanded similar reductions even though no mistakes had been made in their assessments.

The City Attorney explained that State Statutes specified the assessment process in order to spread the cost of improvements over all the benefiting properties. He stated that the cost among the benefiting properties had to be equitable when the process was said and done. The City Attorney stated that the Statute provided for going through the process again when these types of mistakes were made, and that was why these hearings had been called tonight.

Mayor Naugle felt the use of square footage was an unfair method of assessment. He had begged the former City Manager to use the per-unit formula used in the City of Oakland Park because it was easier and fairer. However, the then City Manager had prevailed. Mayor Naugle asked if it would be possible to table this for 6 months to see if that idea could be explored further since some Commissioners felt neighborhoods should pay less for these types of improvements through some sort of additional sales tax.

Mr. Kisela stated that approximately 27% of the total assessment had been collected to date. Mayor Naugle suggested that amount be refunded and this issue delayed until it could be determined if sales tax could be used. He thought it seemed unfair that some citizens had to pay for these types of improvements while others might not. Mr. Kisela thought that was possible, but he did not want to make a complex situation even more complex. He reminded the Commission that two other assessment projects would be completed within the next few months, so there could be dramatic financial consequences if those projects were also delayed.

Commissioner Moore pointed out that the Commission had not agreed to seek any other special tax. Mayor Naugle understood that, but the subject was under discussion. Commissioner Moore reiterated that a final determination had not been made but, once discussion was over, there was no way to know if the monies would actually be forthcoming. This evening, however, the issue involved a sewer system that had already been installed, and the issue was the assessment.

Commissioner Moore agreed that the assessment methodology had been problematic, but the Commission had voted on it. Further, the community had also agreed upon that methodology during the public hearings. He acknowledged the difficulty of the situation.

Commissioner Hutchinson wondered if the Tarpon River Civic Association was represented at this hearing. There did not appear to be any specific representation, although it appeared there were Board members present. Commissioner Hutchinson found it odd.

Commissioner Smith did not think it was fair for Mayor Naugle to blame the former City Manager for the assessment methodology that had been used. He pointed out that Mr. Johnson had been the City Manager since 1998, and if anyone was to blame, it was the Commission. Commissioner Smith said he had listened to the pros and cons of all the different assessment methodology, and there had been full discussion of all the options, but the Commission had voted that the square footage method seemed to be the fairest. He thought Mayor Naugle might have voted against it himself, but the Commission had made the decision, and he thought it was time to stop blaming the former City Manager for everything.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson that the City absorb the \$53,000 cost.

Commissioner Moore hoped the Commission would not support that motion based upon the statements made moments ago by the City Attorney and by Mr. Kisela. Commissioner Smith believed they had indicated that most people would pay their fair share, and there could be some possibility that a small portion of people might benefit because of the City's mistake. There was also a slim possibility that some people would seize the opportunity to "hoodwink" their government and sue because they did not want to pay their fair share. Commissioner Smith believed they would have an extremely weak case, and he believed Fort Lauderdale's citizens had greater integrity than that.

Mayor Naugle stated that Mr. Hanbury had been the City Manager of record when the mistakes were made, and he had many conversations with him against using the square footage method of assessment. He felt that method only benefited developers because it put pressure on large property owners to redevelop their properties. Mayor Naugle realized some Commissioners had a great love for Mr. Hanbury, but this was another example of his failures.

Commissioner Katz had a problem with the notion that the Commission had been given professional advice about what could happen if the City absorbed this cost as suggested by Commissioner Smith. She was sure staff was as embarrassed as she was about the errors that had been made, but she did not think it would be wise to jeopardize the entire assessment in reaction to the mistake. Commissioner Katz suggested that consideration be given to returning some money to neighborhoods that had recently had sewers installed if and when the surtax was approved.

The City Manager fully understood the Commission's desire to be fair, and he agreed no one should suffer a loss. By the same token, the City had a responsibility to ensure equity within the assessment area. He reminded the Commission that there was a second hearing scheduled this evening to hear from those individuals who felt there were inequities in the assessment. He asked that the Commission give him the opportunity to cure those individual inequities administratively. The City Manager assured everyone that he would attempt, within the confines of the law and available resources, to account for those who might suffer a financial loss due to their reliance on the City's erroneous figures. The City Manager believed he could satisfy the requirements of State law without doing anything to jeopardize the entire assessment area if the Commission followed staff's recommendation.

The City Manager advised that acceptance of the system itself was scheduled for June 1, 2000, which would allow everyone who wanted to connect to the system. He did not know if a delay this evening would preclude anyone's ability to connect, but he thought it would defy logical sequence.

Mayor Naugle requested clarification about the second public hearing at which individual assessments would be addressed. He asked if the City Manager was suggesting the bills could be adjusted at that time. The City Manager explained that Item PH-3 involved the Commission sitting as an equalizing board to hear individual complaints about the equity of the assessments. He advised that the Commission would, as part of that action, empower him to hear those complaints and make administrative adjustments as he found necessary based on fairness and equity.

Commissioner Hutchinson inquired about the submerged lands. The City Manager understood the consensus of the Commission as to the submerged lands was to discount those areas as recommended by staff. The City Attorney explained that the authority in the proposed resolution that would be granted if it was adopted would allow the City Manager to correct any errors in the assessments discovered after the hearing and make necessary adjustments due to a calculation error. However, the actual equalization and adjustment of assessments had to take place at the second hearing tonight based on a decision of this Commission. The City Attorney wanted to make it clear that the second resolution would only empower the City Manager to correct mistakes made in the assessment.

Mayor Naugle noted there was a motion on the floor to forgive the \$53,000 under-assessment, and there were concerns it would jeopardize the entire assessment. He wondered if the City would be in a more comfortable position if that amount came from the General Fund Contingencies, chalked up to a management mistake. The City Attorney thought the City might be in a better position to defend a challenge, but probably not significantly. He said it would be more in the nature of settling a claim based on the City's negligence.

Commissioner Smith felt it would be appropriate to take the money from General Fund Contingencies. Commissioner Hutchinson had no objection as second to the motion. Commissioner Moore thought this was a creative approach, but it was something of a "game." He pointed out that the City had originally indicated that the cost would not be more than \$.62 per square foot, and the actual correct assessment fell within that range.

Commissioner Moore noted that the error had occurred in the measurement of the properties and not in the cost of the improvement project. He also pointed out that people often had to go through various processes to correct problems that had been due to a City mistake. Commissioner Moore cited certain variance requests as an example. He stated that City employees were only human and sometimes made mistakes, and they had to be corrected. Commissioner Moore thought the tone of the conversation seemed to be indicating that someone had deliberately set out to hurt someone, but that was not the case.

Commissioner Moore preferred to examine individual cases of hardship in this area with this particular assessment, and more particularly those who had already paid their assessments. Perhaps those individuals could be excused from sewer fees for a certain time period. He believed that might avoid the possibility of the entire assessment being jeopardized and litigated forever.

Commissioner Smith did not think anyone was suggesting anyone had done anything maliciously. He understood it had been an honest mistake, but it had been a mistake nevertheless. Commissioner Smith felt people should be able to rely on the information provided, however, and he felt the City should keep its integrity intact by picking up the cost of this mistake.

Commissioner Smith stood by his motion to absorb the \$53,000 cost, and he felt Mayor Naugle had come up with a good idea as to using General Fund Contingencies. He thought the City Attorney had concurred. Commissioner Katz did not believe the City Attorney was recommending that idea. As to integrity, she pointed out that everyone in the City trusted local government not to get them caught up in a legal situation that would put City finances at risk. She understood the objections to what had happened, but everyone in the City would object if the Commission jeopardized the entire assessment.

Commissioner Katz thought perhaps something could be done to help the people who had been harmed by this later. Commissioner Hutchinson did not understand what she meant by later. Commissioner Katz was hopeful that staff could examine the situation in more detail and perhaps find another way to help those who had need. Commissioner Hutchinson believed enough time had been spent seeking alternatives, although she had not been privy to the first public hearing. She was sure no one was happy that the City had sent out several erroneous bills, and she had not heard anyone stand up and volunteer to pay what they owed. Commissioner Hutchinson felt the City had "egg on its face" and had to find a way to correct the situation.

Mayor Naugle recalled that a public hearing had been held on the basis of residents receiving bills for certain total amounts. They were told the bill could not exceed a certain amount, and the people had based their opinions on the project on that information. Mayor Naugle pointed out that if the residents had known the higher figure, they might have convinced the Commission not to go forward with the project at all. He had voted against it because he had been convinced that the majority of the residents were opposed, and the support had come from individuals who wanted to redevelop properties in the neighborhood. Mayor Naugle believed Commissioner Smith had also voted against the project itself, and Commissioner Hutchinson had not voted on it all. Therefore, there were at least three Commissioners who might vote against the entire assessment, and that would result in an even more serious predicament. He felt the motion on the floor was an extremely generous gesture to get the City out of a problem this Commission had inherited from a previous City Manager.

Mr. Kisela thought one way out of this mess might be to double the \$500 grant offered to property owners to \$1,000. He believed that would help everyone with their connections, and it would benefit the City because the system would work better as properties were connected. Mr. Kisela also noted that many of the properties that had been under-assessed would be addressed when the submerged land had been discounted.

Commissioner Smith expressed appreciation to Mr. Kisela for accepting responsibility for this mistake, but he wanted to stand by his **motion with an amendment** so the funds would come from General Fund Contingencies. Commissioner Hutchinson accepted the amendment as second to the motion.

Roll call on the **amended motion** showed: Roll call showed: YEAS: Commissioners Smith, Hutchinson and Mayor Naugle. NAYS: Commissioners Katz and Moore.

Commissioner Smith introduced a written resolution entitled:

RESOLUTION NO. A-00-14

A RESOLUTION OF THE CIT COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING THE INSTALLATION OF A SANITARY SEWER COLLECTION SYSTEM AND REPLACEMENT WATER MAINS TO THE TARPON RIVER NEIGHBORHOOD AND TO DEFRAY THE EXPENSE BY SPECIAL ASSESSMENTS; DESCRIBING THE NATURE AND LOCATION OF THE IMPROVEMENTS; PROVIDING FOR THE COST OF THE IMPROVEMENTS; PROVIDING FOR THE MANNER IN WHICH SAID ASSESSMENTS SHALL BE MADE, WHEN SAID ASSESSMENTS ARE TO BE PAID; DESIGNATING THE LANDS UPON WHICH THE SPECIAL ASSESSMENTS SHALL BE LEVIED; AMENDING THE FINAL ASSESSMENT ROLL AS AMENDED BY RESOLUTION NO. A-00-5 AND AMENDING RESOLUTION NO. A-00-11 TO APPLY TO THE AMENDED SPECIAL ASSESSMENT.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

**Tarpon River Neighborhood Sanitary Sewer Improvement
Special Assessment Project – Final Assessment Roll (PH-3)**

The City Commission was scheduled to meet as an equalizing board to hear and consider complaints as to special assessments and consider a resolution approving the final assessment roll. Notice of the public hearing was published on May 1 and 8, 2000. (Please see Item PH-2 on this Agenda).

Mayor Naugle called for those who wished to be heard. The following appeared:

Mr. Gaylord Wood, 626 Southwest 11th Court, said he was present to object to the manner and amount of his assessment, although he wanted to compliment Mr. Bailey on his efforts to deal with this issue. He felt the first issue was correcting the problem and advised that the Property Appraiser could provide base maps and photography overlays through interlocal agreements. He thought this was something the City could and should explore in order to avoid similar errors in the future.

Mr. Wood said he lived on one of the smaller lots in the neighborhood, but he still felt the square footage assessment method was unfair. He did not understand how it was fair for one house to get a \$6,000 assessment and another to get a \$9,000 assessment only because the latter had more grass to mow. From an equity standpoint, Mr. Wood felt that was completely indefensible because lawn did not generate waste.

Mr. Wood advised he had examined the report prepared by Real Property Analysts, and he understood Tarpon Place owned deeded land on which docks were constructed. He had been told that area would not be assessed, but if other owners of submerged land were going to have to pay 10%, Tarpon Place should as well. Mr. Bailey confirmed that area was off the assessment roll. Mr. Wood said he was opposed to that because he had tried to build a boat lift completely within the confines of his lot, but he had been told his land ended at the seawall as far as the City was concerned. He felt if someone who owned bottomland was not being assessed on it, he should be treated the same, or both should pay the 10%. Mayor Naugle thought that seemed fair.

Commissioner Smith asked why the Tarpon Place dock area was not included in the assessment roll. Mr. Bailey replied that Mr. Wood was referring to 8 dock spaces which were individually owned by residents of the Tarpon River Club. He explained that the docks could not be used for density calculations for the town home parcels, and the docks were actually strips of land along the seawall as opposed to submerged lands. In the case of Mr. Wood's home, the submerged land could be counted for density purposes. Mr. Wood stated that would only be applicable if he wanted to demolish his house and build town homes. He believed the purpose of this hearing was to assess the value of the benefits of the sewer improvements and not the value of the land. For the purpose of assessing the benefit of new sewers, Mr. Wood felt both properties should be treated equally.

Ms. Jean Kurchner said she lived next door to Mr. Wood on 11th Court, stated that she had a "four corner" survey and it did not indicate how much was dry land and how much was submerged land. Since her seawall was straight and matched up with her neighbor's, she was fairly certain the property line measured 88' as did her neighbor's. Ms. Kurchner felt the per unit assessment method was the only fair way to proceed because square footage had nothing to do with sewage. However, the number of units on the land did, and Ms. Kurchner thought the City should go back and correct that mistake.

Ms. Kurchner stated that she had received 5 letters with 5 different assessment amounts, and she thought the City had to go back and fix all the mistakes. She also agreed with Mr. Wood that the town house property should be treated the same as other properties in terms of submerged land. Ms. Kurchner felt treating the properties differently was discrimination. She was also more confused now than she had been before coming to this meeting because everyone seemed to contradict one another.

Ms. Kurchner noted Commissioner Smith had mentioned trust in government, and she stated that she did not trust the Commission. She did not think they were competent to run the City. Ms. Kurchner did not want to connect to the sewer system. She said her septic system worked very well. Mayor Naugle believed that if Ms. Kurchner made her survey available to Mr. Bailey, the necessary assessment adjustments could be made, but the sewers had already been installed.

Ms. Kurchner understood property owners did not have to connect to the sewer system except at certain times under certain circumstances. One of those was if an agency in authority so indicated, property owners would have to connect, and Ms. Kurchner wondered what agency that might be. Mayor Naugle stated that it was possible that a County or State environmental or land use agency might mandate connection at some point. He noted that the County was comfortable with the timetable proposed.

Ms. Kurchner asked how people would pay for use of the sewers. She asked if she would be charged for use of the sewers even if she had not connected to the system. Mayor Naugle replied she would not be charged for use until she connected. Mr. Bailey agreed that was correct. Ms. Kurchner thought the City should start over and do this right if the Commission had any concern about trust in government.

Commissioner Smith explained that the problem with the per unit assessment was that people with single-family homes today could pay the one unit amount, and then the properties could sold for town house development. At that time, the City could not go back and charge the per unit amount for the newly added units. He said that was the reason he had not felt the per unit assessment was fair.

Mr. Ted Ritter felt a front footage formula would have been fairer. Mayor Naugle explained that issue had already been addressed, and the purpose of this hearing was to address the assessments on individual parcels. Mr. Ritter said he had counted 80 wet lots as opposed to the 40 mentioned earlier, and the problem with his assessment was that the City surveyor had assessed 2,150 square feet of submerged land. He had already taken steps to have that corrected, but he wanted it reduced entirely because he could not even build a dock on it because there were mangroves present. Mr. Ritter could not get permits so the land was good only to look at.

Mr. Gil McGarris, 211 Southwest 10th Street, had a problem with having to pay his assessment if the City was going to pay some of his neighbors' share. He did not see why he should have to pay \$.58 a square foot while someone else paid less because there had been a mistake on the part of the City. It was his understanding that one property owner's assessment would amount of \$.02 per square foot in that case. If the connection grant was increased from \$500 to \$1,000, that would only benefit those who wished to connect immediately, so that did not equalize everyone in the neighborhood. Mr. McGarris concluded that he would pay his \$.58 per square foot, but he felt everyone else should have to pay the same amount because otherwise he would be paying again as a taxpayer who had paid into the Contingency Fund. He did not see that approach as being fair and equitable.

Motion made by Commissioner Moore and seconded by Commissioner Smith that the public hearing be closed. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Motion made by Commissioner Moore and seconded by Commissioner Smith to affirm staff's recommendation as to a 10% assessment on the submerged lands, calculated on an individual basis when surveys were presented. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Commissioner Smith introduced a written resolution entitled:

RESOLUTION NO. A-00-15

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING THE FINAL ASSESSMENT ROLL AND THE SPECIAL ASSESSMENTS FOR THE TARPON RIVER NEIGHBORHOOD SANITARY SEWER IMPROVEMENTS PROJECT; PROJECT NO. 9858.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

At 10:53 P.M., the meeting was recessed. It was reconvened at 11:02 P.M.

**Amend Sections 47-12, 47-23.6, 47-24 and 47-25 –
Central Beach Districts and Permitted Use Change
to the PRD, ABA, IOA, SBMHA, NBRA and SLA Zoning Districts (PH-4)**

An ordinance was presented amending Section 47-12, "Central Beach Districts," and Section 47-23.6, Section 47-24, and Section 47-25 of the ULDR regarding the North and Central Beach Moratoria. Notice of the public hearing was published on May 9, 2000.

Mayor Naugle called for those who wished to be heard. The following appeared:

Mr. Chris Wren, Planning & Zoning Manager, described the zoning districts affected by this ordinance:

Planned Resort Development District (PRD)
A-1-A Beach Area District (ABA)
Intracoastal Overlook Area District (IOA)
North Beach Residential Area District (NBRA)

Sunrise Lane Area District (SLA)
South Beach Marina Hotel Area District (SBMHA)

Mr. Wren recalled that there had been discussion on April 18, 2000, about the moratorium projects considered zoning in progress, as well as a variety of different community outreach workshops. At that time, the Commission had decided to withdraw the ordinance because committees were working on the Bob Daniels' Report in order to bring back zoning in progress items for a first ordinance reading. He noted that two items had been added to the zoning in progress list – to allow the ability to request less than 20' yards parcels fronting on Sunrise Boulevard and in the SLA District; and, the issue of exceeding the 200' length and width building requirement in all six districts.

Mr. Wren stated that the 200' requirement had been modified so an applicant could seek approval of a modification from the City Commission in the PRD District. The ABA District had subsequently been added provided the request pertained only in the east/west direction. He advised that had been contained in the ordinance, and the committee had voiced some concerns as listed in the back-up memorandum distributed in connection with this item. Mr. Wren stated those concerns were now being presented in the form of some more specific recommendations.

Mr. Wren advised staff endorsed the recommendation against including this in the ordinance at this time and continue it as zoning in progress. He explained that this might change as the committee's work progressed on other bulk regulations. Mr. Wren did not know if it would change, but it was a sensitive issue, and he felt it was best to leave it as zoning in progress at this time. He reported there had been some discussion about zoning in progress for all six districts, but the idea had reverted back to just the PRD District and the ABA District but only in the east/west direction.

Mr. Donald Hall referred to the ABA District. He advised that he was an Attorney representing the developer of Fortune House – a project some 18 months in the planning that had gone to the Planning & Zoning Board in April. Mr. Hall stated that the Board had unanimously recommended approval of the project to the City Commission. He explained that Fortune House had gone to the Board under a different interpretation of zoning in progress than had been announced in March, but it had not mattered because it was announced at the meeting that this ordinance would be considered this evening.

Mr. Hall referred to the ability of a parcel of property in the ABA to exceed the 200' building length limitation in an east/west direction only. He was sure the Commission was very familiar with the lots in the ABA, which were long, thin, rectangular lots with the longer dimension running east/west. Mr. Hall did not believe the quality of development desired in this area would be achieved with a static 200' limit. He agreed with Mr. Wren's proposal to remove this provision as it was currently written from the ordinance, although he endorsed it, because the community wished to consider other options.

Mr. Hall stated that the Section to which he was referring was Section 47-12.5.b.7 on page 5 of the proposed ordinance. He said he would like to go forward with the zoning in progress, and he believed it would accomplish the announced zoning in progress goal to allow increases in the east/west dimension under certain conditions. Mr. Hall believed the condition being suggested tonight was that a project could be approved with a building length in excess of 200' in an east/west direction in the ABA only if it was approved as a Level 4 site plan calling for City Commission review.

Mr. Hall wished to note that Fortune House was scheduled for presentation to the City Commission on June 20, 2000. Commissioner Smith understood the committee would not complete its work until June 26, 2000. He asked if Fortune House would be reviewed without knowing what final rules would be recommended. Mr. Hall replied it would, and he understood the committee was comfortable with this if it involved Level 4 site plan review. He believed Ms. Childs would so indicate in a moment. As to other projects, there would probably be another set of criteria, and he believed it would take more time to fully expand on that issue.

Ms. Alysian Childs, President of the Central Beach Alliance, believed progress was being made, and she wanted to address two issues tonight. One was the 200' building limit, and Ms. Childs stated this had been an issue for a long time, and she was concerned about an absolute height limitation of 250' for a building measuring more than 200'. Ms. Childs stated that had only been one suggestion from the committee, and its members were continuing to work on qualitative and quantitative standards.

Ms. Childs explained that the intent was that something would be given in return if some exception was requested. She stated that one of the concerns of the residents was that a development of significant impact had been perceived as a "give away." Ms. Childs felt qualitative and quantitative criteria would dispel that perception. She advised that the committee wanted to continue to work on this issue and, whenever these types of exceptions were sought, the committee felt Level 4 site plan review should be required. Ms. Childs stated that if, for example, the length of a building would be increased, the height would be decreased, and the setbacks would increase.

Ms. Childs stated that the ABA and PRD Districts were the only areas that had been truly studied by the work group and presented to the Central Beach Alliance membership. She felt extending the issue into other areas at this time would be inappropriate and ill advised because input had not yet been obtained in that regard. Ms. Childs referred to the SLA. She understood a developer had been working with the condominiums in the area, and she felt the view corridors should be preserved. She asked that this be added to the list, and the Central Beach Alliance was committed to working with the City and the development community.

Commissioner Smith understood the view corridor was important to the beach, and Ms. Childs wanted the Commission to consider that issue this evening. He asked if there was something specific she wanted added to zoning in progress. Ms. Childs stated that cutting over the bridges was an issue. She explained that not only residents to the area, but visitors, had to be considered. Ms. Childs advised that straight "up and down" buildings created a barrier to the beach, and the intent was to provide architectural features that promoted the view of the beach. Commissioner Smith agreed. He asked Mr. Wren if there was some way to include this as zoning in progress. Mr. Wren stated that the ordinance under consideration this evening included design guidelines for view corridors.

Commissioner Smith noted that Ms. Childs had mentioned "trade offs" when developers wanted an increase in the 200' building length limitation. He wondered if Fortune House was running the risk of having to change the site plan if the committee decided that setback reductions had to come with building length increases. Mr. Wren stated that any new proposals would have to be advertised and presented to the Commission to create a new zoning in progress. Therefore, technically, there were no problems with new regulations. He noted that the design guidelines were not specific at this point, but the Commission could ask for a greater setback if there was some reason for it. Mr. Wren pointed out that there was no guarantee the Commission would approve an exception, so the tools in place allowed some "give and take."

Ms. Molly Hughes, Traffic Consultant representing Mr. And Mrs. Esposito, who owned Franco & Vinny's, agreed with Ms. Childs' comments in principle. She stated that the Espositos owned a site that extended more than 200' east and west, and the owners wanted the same opportunities of owners of similar properties in the ABA District. Ms. Hughes said the reason was that without an extension beyond the 200', the owners would be forced to build higher in order to provide necessary parking on the site. She expected that certain "trade offs" would be necessary such as a lower height for the parking garage while still providing all the parking the community needed. Therefore, Ms. Hughes asked the Commission to consider treating the SLA District in the same fashion as the ABA District.

Ms. Hughes recognized that not all of the work that needed to be done within the community had been accomplished, and she asked that the SLA District be added for consideration this evening on first reading. Additional work could then be done before second reading of the ordinance and, if the Commission determined the work had not been successful and the community objected to this proposal, the ordinance could be amended on second reading.

Mr. Bennett Zarron, of the north beach area, felt the meetings had gone well and expected work to be completed before the end of June. Mr. Wren advised that June 20, 2000 was the target date. Mr. Zarron said his point was that the work would be completed on time, and the Fortune House might be a perfect opportunity to examine some of the criteria being developed to see if it would work. He felt the process was going well and staff was doing a great job.

Mrs. Diane Smart, of the Central Beach Alliance and the Birch Square Condominium, stated that this issue was about mass. It was about the mass of the Palms, Jackson Tower, Bridgeside Square, Bayshore Towers, and Beach Place. Mrs. Smart felt Fort Lauderdale was in danger of getting "hulk and bulk" rather than "grace." She thought it was time to cut back from the mass allowed under the old Code and, while the Commission had to think about the tax base, it also had to consider charm, proportion, views, pedestrian ways, and the space between buildings. Mrs. Smart stated it was regrettable when developers did not respect the viewpoints of neighborhood residents by presenting their plans in advance of City approval.

Ms. Eileen Helfer, Vice-President of the Central Beach Alliance, was concerned because Ms. Hughes wanted to "slip something in." She asked that the Commission not add the SLA to the ordinance as requested by Ms. Hughes, but that the subject be added to the committee's agenda for study. Ms. Helfer invited Ms. Hughes to present the project at the next meeting of the Central Beach Alliance because its membership wanted to know what was happening in its neighborhood.

Ms. Miranda Lopez, Dolphin Isles, said that as a member of the committee she wanted to clarify that provision contained in the memorandum had not been the recommendation of the committee. The committee's position was that the ULDR could not be changed based on the needs of one project. She explained the committee supported the maximum 200' length as an effective tool to achieve the moratorium goals and was still working on this issue.

Ms. Lopez also desired clarification with regard to Point No. 6 as to design guidelines. She was concerned indicating that the building density should be consistent with the proposed use and adjacent developments. She wanted to ensure that the adjacent properties were taken into consideration.

Commissioner Smith understood Ms. Lopez was referring to the fact that today's urban design guidelines referred to having high rises that were consistent with surrounding neighborhoods. She did not want buildings such as The Palms on the other side of A-1-A. Ms. Lopez said her point was that when density and height was considered, they should be considered in the context of surrounding properties. She did not want buildings such as The Palms used as the standard.

Mr. Bill Smart was upset about the 200' maximum being overlooked. It had been discussed at great length, and the majority favored limiting building size on the beach to 200'. He had been out of town and returned to find various buildings had been approved. Mr. Smart wondered what had happened to the firm decision made to limit the size of buildings. He asked the City Commission to reconsider some of the buildings that had been approved. Mr. Smart cited the Castillo Grand as an example. He pointed out that Beach Place was right next door, and residents could look into one another's windows. Mr. Smart felt the juxtaposition of buildings was being overlooked.

Mr. Smart recalled that early in the process, he had suggested that the City examine these projects three dimensionally in order to see how buildings would look on the beach. He had been assured the City had this capability, and he had seen it, but it was a tool that seemed not to be used when projects were being considered. Mr. Smart felt a mandatory visualization should be required so everyone could see what a building would look like in juxtaposition to those surrounding it in the total beach area. He pointed out that the barrier island was fragile, and some very dense buildings were being constructed. Commissioner Smith pointed out that the Fortune House had provided such a visualization, which was very helpful.

Mr. Gus Carbonell, Architect representing Franco & Vinny's, said it had always been the developer's intent to meet with neighborhood residents to obtain input before moving forward into the DRC process. He felt that was extremely important to the success of the project. Mr. Carbonell encouraged the City Commission to add the SLA District to the Level 4 application process. Mr. Carbonell felt each site should be examined separately. He pointed out that the site he was working on was surrounding on three sides by streets, and it offered a different and unique environment than did a site between other buildings. In addition, the SLA District was small, and Mr. Carbonell believed this might be the last lot available for development.

Commissioner Smith asked if there was any reason this could not wait until June 20, 2000 as that was when the committee would finish its work and provide recommendations. Mr. Carbonell said the project could wait, but he did not want this site left out when it came to flexibility.

Motion made by Commissioner Moore and seconded by Commissioner Smith that the public hearing be closed. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Mayor Naugle agreed with Mr. Smart as to keeping the 200' limit. He believed that would make a difference, and perhaps the result would be multiple buildings rather than fewer buildings that were massive at the street level. He was comfortable leaving the 200' limitation in the ordinance.

Commissioner Moore understood Mr. Smart's idea was that the Commission might want to use a process of evaluation different than going through the Planning & Zoning Board, which examined Code requirements. He thought that might affect development rights per design guidelines or the zoning district in which a property was located. Commissioner Moore was concerned about situations in which two adjacent properties, for example, were treated differently. He felt development rights and zoning had to be considered, and one building should not be allowed while another was denied just because one developer had moved more quickly than the next.

Commissioner Moore supported the rationale behind the 200' limitation, but he also understood concerns that everything would look the same in the beach area. He also wondered if the result would be well-designed buildings.

Commissioner Smith was happy with the progress so far, and he agreed the ABA District should be allowed to request a waiver of the 200' building limitation under certain conditions. He felt that was appropriate and had been well studied. He believed the Castillo Grand was a better building for having that requirement adjusted. Commissioner Smith did not believe the committee had been given an opportunity to consider the SLA District yet, so he did not think that should be included at this time. He preferred the committee provide a recommendation on June 20, 2000. He supported the ordinance with the portion amended as suggested by Mr. Hall and the Central Beach Alliance, without including the SLA District at this time.

Commissioner Hutchinson believed that when there were developments of significant impact, the public had the perception that "the world was being given away." She agreed with the Central Beach Alliance that parameters were necessary so that if something was given away, something was gained in return. Commissioner Hutchinson was concerned about that throughout Fort Lauderdale.

Commissioner Katz thought the Central Beach Alliance had put in a lot of effort, along with many members of the development community, and she was pleased that Mr. Hall and Ms. Childs agreed on something. She also liked the idea of requiring some sort of three dimensional model for projects being considered by the Planning & Zoning Board and the City Commission. Commissioner Katz agreed it would provide a sense of depth, density, height, and how a structure would relate to other buildings in the area. Mayor Naugle was sure a local high school had a CADD system that could easily accomplish that goal.

Mr. Wren stated that a base template had been created in CADD during the moratorium, and staff was going to try to allow applicants to use that database to render a model. Commissioner Smith advised that the Fortune House had provided some actual photographs that had been superimposed over the area. Mr. Wren advised that had involved another program, but staff could look into the idea of another type of CADD database. Mr. Hall said he would be happy to assist.

Motion made by Commissioner Moore to include the SLA District in the 200' building limitation waiver process. Motion died for lack of a second.

Commissioner Smith introduced the following ordinance on first reading:

ORDINANCE NO. C-00-26

AN ORDINANCE AMENDING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING SECTION 47-12, "CENTRAL BEACH DISTRICTS" TO REVISE CRITERIA FOR MODIFICATION OF YARDS, TO APPLY REQUIREMENTS FOR WATERWAY USES, TO REVISE THE LIST OF PERMITTED USES IN PRD, ABA, SLA, IOA, AND SBMHA DISTRICTS; TO ESTABLISH WIDTH AND LENGTH OF BUILDINGS AND DISTANCE BETWEEN BUILDING REQUIREMENTS, AMENDING SECTION 47-23.6, "BEACH SHADOW RESTRICTIONS" TO REVISE MEASUREMENT FOR SETBACKS, AMENDING TABLE 1 OF SECTION 47-24, "DEVELOPMENT PERMITS AND PROCEDURES" TO APPLY ADEQUACY AND COMPATIBILITY CRITERIA TO CENTRAL BEACH DEVELOPMENTS; AMENDING SECTION 47-25.2 "ADEQUACY REQUIREMENTS" TO REQUIRE HURRICANE EVACUATION REVIEW; AMENDING SECTION 47-25.3, "NEIGHBORHOOD COMPATIBILITY REQUIREMENTS" TO INCLUDE THE DESIGN GUIDELINES IN THE ULDR, AND TO REVISE AND APPLY THEM TO THE RMH-25, RMH-60 AND RMM-25 ZONING DISTRICTS EAST OF THE INTRACOASTAL WATERWAY.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Hutchinson, and Mayor Naugle. NAYS: Commissioner Moore.

Amendment to the Pay Plan (O-1)

An ordinance was presented amending Schedule I of the Pay Plan of the City of Fort Lauderdale to provide for title changes, the creation of new classes, pay range adjustments within classes, and title changes and pay range adjustments within classes. Ordinance No. C-00-24 was published on April 22, 2000, and was passed on first reading at the Regular Meeting of May 2, 2000 by a vote of 5 to 0.

Commissioner Moore introduced the following ordinance on second reading, as revised:

ORDINANCE NO. C-00-24

AN ORDINANCE AMENDING SCHEDULE I OF THE PAY PLAN OF THE CITY OF FORT LAUDERDALE, FLORIDA, PROVIDING FOR TITLE CHANGES, THE CREATION OF NEW CLASSES, PAY RANGE ADJUSTMENTS WITHIN CLASSES, AND FOR TITLE CHANGES AND PAY RANGE ADJUSTMENTS WITHIN CLASSES.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Amend Section 47-3 – Nonconforming Uses, Structures and Lots – Development Review Committee Thresholds for Change of Use Applications (PZ Case No. 1-T-00a) (O-2)

At the regular meeting of the Planning & Zoning Board on January 20, 2000, it was recommended by a vote of 8 to 0 that the following application be approved. This ordinance would amend the ULDR Section 47-3, "Nonconforming Uses, Structures and Lots," to revise the process for permitting a change in use that does not require Development Review Committee (DRC) review. Ordinance No. C-00-25 was published on April 1, 2000. On April 11, 2000, the City Commission deferred first reading to May 2, 2000 by a vote of 5 to 0. Ordinance No. C-00-25 was passed on first reading at the Regular Meeting of May 2, 2000 by a vote of 5 to 0.

Applicant: City of Fort Lauderdale
Request: Amend ULDR Section 47-3, Nonconforming Uses, Structures and Lots, to revise the process for permitting a change in use that does not require DRC review

Commissioner Katz wondered how the City Commission would find out about this within the 7-day period. Mr. Dan Siff, Office of Community and Comprehensive Planning, explained that if a change of use request not meeting DRC thresholds was received, the Zoning Examiner would send an e-mail to the City Commission. At that time, any City Commissioner could file a Notice of Intent. Mayor Naugle did not think e-mail to the Commissioners would suffice because they might not receive it in time, but if it was sent to their staff, the 7-day call-up period could be met. Mr. Siff agreed the information was sent to Commission staff.

Commissioner Katz asked if the count of days started on the day the e-mail was sent even if it was not sent until very late in the day. The City Attorney advised the call-up period was 7 days after a determination was made, so the Commission had to rely on staff to provide immediate notification at that time. He stated that staff would work out the process administratively. He noted that the time period could be increased. Ms. Cecelia Hollar, Construction Services Director, was sure the City had the technology to provide timely notice. Mayor Naugle suggested trying it and amending it later if there were any problems.

Commissioner Moore introduced the following ordinance, as revised, on second reading:

ORDINANCE NO. C-00-25

AN ORDINANCE AMENDING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING SECTION 47-3, NONCONFORMING USES, STRUCTURES AND LOTS, TO REVISE THE PROCESS FOR PERMITTING A CHANGE IN USE THAT DOES NOT REQUIRE DEVELOPMENT REVIEW COMMITTEE REVIEW.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

**Amendment to Chapter 2 –
Lobbying Activities/Registration (O-3)**

An ordinance was presented creating a new Article VIII of Chapter 2, "Administration," of the City's Code of Ordinances entitled "Lobbying Activities," to define lobbyists and lobbying activities; to require registration of and statements by lobbyists; and, to prohibit lobbying by certain prior City officials and employees for a period of time after leaving the City. Notice of the proposed ordinance was published on May 6, 2000.

Mr. John Schlegel said he had been proud to be a City employee for about 25 years, but he had been unceremoniously asked to leave in 1994. He had later come back at the City's request in 1996 as a temporary, full-time employee. Mr. Schlegel was quite concerned about his ability to do work in the town he happened to know best. He understood there were a lot of other cities in the County, but he knew how Fort Lauderdale worked. He did not feel it was fair that he would have to wait a year before he could do work in his own hometown. Mr. Schlegel also had other concerns about definitions, lobbying v. obtaining clarification of public records, etc. He suggested that this ordinance not be applied to temporary employees.

Commissioner Hutchinson did not know how to resolve Mr. Schlegel's issue, but she did have a question about expenses. She thought lunches and dinners had been overlooked. Commissioner Hutchinson pointed out that Commissioners were invited to lunches and dinners to view presentations on different projects. Mayor Naugle suggested that this be added prior to second reading.

Commissioner Moore did not feel this was necessary, and he did not believe the ordinance should be applied to a former employee or someone who no longer had a contract with the City. He felt it was sufficient to disclose conversations with advocates, and he did not believe anyone would change their position on an issue because someone bought them lunch. Commissioner Moore was also concerned about Mr. Schlegel's situation.

Commissioner Moore felt this ordinance should address anyone who was an employee of the City or contracted to provide services. He saw no reason to deal with former employees by making the ordinance retroactive. Mayor Naugle did not object to not making the ordinance retroactive. Commissioner Smith agreed. The City Attorney advised that the effective date could be adjusted accordingly, but he could not change the scope of registration and prohibitions to cover consultants because they had never been part of this ordinance.

Commissioner Katz asked if this would apply to the Special Masters. The City Attorney replied it would not because they were not employees, officials, or listed in any of the categories. In fact, they were hired to be independent.

Commissioner Moore introduced the following ordinance, as amended, on first reading:

ORDINANCE NO. C-00-27

AN ORDINANCE CREATING A NEW ARTICLE VIII OF CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, ENTITLED LOBBYING ACTIVITIES, TO PROVIDE FOR DEFINITIONS OF LOBBYISTS AND LOBBYING ACTIVITIES; TO REQUIRE REGISTRATION OF AND STATEMENTS BY LOBBYISTS, AND TO PROHIBIT LOBBYING BY CERTAIN PRIOR CITY OFFICIALS AND EMPLOYEES FOR A PERIOD OF TIME AFTER LEAVING THE CITY.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

**Vacate Utility Easement – West Marine Products
(PZ Case No. 8-M-99)**

..... (R-1)

A resolution was presented authorizing the vacation of a utility easement in Humble Deetz Subdivision, P.B. 65/35, as follows:

Applicant: West Marine Products
Request: Vacate utility easement
Location: 2300 South Federal Highway

Commissioner Moore introduced a written resolution entitled:

RESOLUTION NO. 00-60

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, VACATING THAT PORTION OF THE 6 FOOT WIDE UTILITY EASEMENT LYING IN LOTS 1 AND 2, "HUMBLE-DEETZ SUBDIVISION", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 65, PAGE 35 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BOUNDED ON NORTH BY THE NORTH LINE OF SAID LOT 1 AND BOUNDED ON THE SOUTH BY THE SOUTH LINE OF SAID LOT 2, LOCATED SOUTH OF SOUTHEAST 23RD STREET, BETWEEN MIAMI ROAD AND SOUTH FEDERAL HIGHWAY, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Demolition of Buildings

..... (R-2)

At the December 16, 1999, January 20, 2000, or February 17, 2000 meeting of the Unsafe Structures & Housing Appeals Board, it was recommended that the City demolish the buildings at the following addresses and assess the properties with costs:

1. 800 West Sunrise Boulevard
2. 629 Northwest 14th Way

3. 734 Northwest 13th Terrace
4. 1601 Northwest 7th Street

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson to approve the demolitions as recommended at 629 Northwest 14th Way and 734 Northwest 13th Terrace. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

1. 800 West Sunrise Boulevard

Mr. John Simmons, Assistant Director of Community Inspections, stated that this property was included in the Kratenstein Trust, and an injunction on the property had been threatened. He advised that an agreement had been reached based upon the fact that plans were ready for submission to renovate the building, and the stipulation that there would be no more fence posts, barriers, or threats. An agreement had been reached to commence with the renovation within six weeks.

The City Attorney explained that his office had learned today that a motion had been filed with the courts to review this matter before demolition proceeded. His staff had thought it would make good sense based on previous hearings before this judge to delay demolition until after that hearing. That was the only agreement that had been reached. It had been his understanding that staff would delete this item from the agenda this evening.

Mayor Naugle asked if the Commission could approve the demolition subject to that hearing. The City Attorney replied that would not be a problem as long as the judge could address the motion prior to the demolition taking place.

Motion made by Commissioner Moore and seconded by Commissioner Smith to approve this demolition subject to the court hearing, within 24 hours of that hearing. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

5. 1601 Northwest 7th Street

Mr. Peter Melnster, representing the current owner of the property at 1601 Northwest 7th Street, objected to this demolition on behalf of his client. He said his client had recently reacquired title to the property and, because it had been the subject of a fraud scheme, it had been illegally subdivided. Mr. Melnster was in the process of determining all the parties who might have an interest in the property before any attempt to rehabilitate the property could be made. He asked that this demolition be deferred.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that this property be demolished immediately. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Commissioner Smith introduced a written resolution entitled:

RESOLUTION NO. 00-61

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, ORDERING THE DEMOLITION OF THE BUILDING OR BUILDINGS UPON EACH PROPERTIES LEGALLY DESCRIBED IN THE ATTACHED SCHEDULE "A," BECAUSE OF NON-COMPLIANCE WITH THE SOUTH FLORIDA BUILDING CODE.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Memorandum of Understanding – Florida

Department of Transportation (FDOT) –

Relocation of Trees from the Fort Lauderdale/

Hollywood International Airport to

State Road 736 (Davie Boulevard) (R-3)

A resolution was presented authorizing the proper City officials to execute a Memorandum of Understanding with FDOT to relocate 367 trees from the Fort Lauderdale/Hollywood International Airport to State Road 736 (Davie Boulevard) at I-95 from Southwest 18th Avenue west to Southwest 25th Avenue.

Commissioner Katz asked if there was a plan in this regard. Mr. Tom Tapp, Parks & Recreation Director, replied that an extensive plan had been developed.

Commissioner Moore introduced a written resolution entitled:

RESOLUTION NO. 00-62

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO A MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION, PROVIDING THAT THE CITY WILL MAINTAIN THE I-95 AND STATE ROAD 736 (DAVIE BOULEVARD) INTERCHANGE UPON THE DEPARTMENT'S RELOCATION OF 367 TREES AND PALMS FROM U.S. HIGHWAY 1 AT THE INTERNATIONAL AIRPORT. _____

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Interlocal Agreement – Gas Tax (OB)

Motion made by Commissioner Smith and seconded by Commissioner Moore to authorize the proper City officials to execute an Interlocal Agreement with Broward County for the distribution of an additional penny in gas tax, contingent upon the approval of the Interlocal Agreement as to form by the City Attorney. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Advisory Board Appointments (OB)

As discussed in Conference, the Commission agreed to schedule interviews with Mr. Gus Carbonell, Mr. Anthony Abbate, Mr. Don Zimmer, Mr. Milton Jones, Mr. John Jordan, Mr. Mike Ferber and Ms. Charlene Bender with respect to the Board of Adjustment. The City Clerk announced that names of the appointees/reappointees who were the subject of this resolution:

Northwest-Progresso-Flagler Heights
Redevelopment Advisory Board

William Cone, Sr.
Laura Mutti
David Damerau
Les Lambert
Lennard Robinson
James Brady
Michael Ferber
Lisa Rogers Cherry
George Burrows
Peter Feldman
Irv Minney
Stanley Brown
Jerry Carter
Sean Jones

Planning & Zoning Board

Mark Ketchum
Alan Gabriel

Cemeteries Board of Trustees

Sandy Casteel

Charter Revision Board

Debbie Orshefsky
Mike Lockwood
Ed Curtis
Jim Camp
Roderick Kemp

Education Advisory Board

Betty Shelly

Community Services Board

Sanford Rosenthal

Community Appearance Board

Ralph Clark

Commissioner Moore introduced a written resolution entitled:

RESOLUTION NO. 00-64

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPOINTING BOARD MEMBERS AS SET FORTH IN THE EXHIBIT ATTACHED HERETO AND MADE A PART HEREOF.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Downtown Development Authority (DDA) (OB)

Commissioner Katz said she had received a request for a workshop between the City Commission and the DDA. It was the consensus of the Commission to schedule a joint meeting. Commissioner Hutchinson advised that the DDA meeting dates this month had been changed to Wednesday, when she was not available.

Emergency Medical Services (EMS) (OB)

Commissioner Moore wondered if the Commission wished him to continue to represent the City on the EMS Board. It was agreed. Commissioner Smith agreed to continue serving as the Alternate.

Floranada Elementary School (OB)

Commissioner Katz introduced a written resolution entitled:

RESOLUTION NO. 00-63

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, REGARDING THE FLASHING LIGHTS NEEDED FOR SCHOOL CROSSING AT FLORANADA ELEMENTARY AS ENCLOSED IN THE ATTACHED LETTER.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

At 12:20 A.M., Mayor Naugle adjourned the meeting.

Jim Naugle, Mayor

ATTEST:

Lucy Masliah, City Clerk